

INLAND REVENUE (AMENDMENT) ORDINANCE 2003**CONTENTS**

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HONG KONG SPECIAL ADMINISTRATIVE REGION**ORDINANCE No. 5 OF 2003**L.S.

TUNG Chee-hwa
Chief Executive
6 March 2003

An Ordinance to amend the Inland Revenue Ordinance to facilitate the use of information technology in furnishing tax returns and to provide for related matters.

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Enacted by the Legislative Council.

1. Short title and commencement

(1) This Ordinance may be cited as the Inland Revenue (Amendment) Ordinance 2003.

(2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

2. Interpretation

Section 2 of the Inland Revenue Ordinance (Cap. 112) is amended—

(a) in subsection (1)—

(i) in the definition of “specified form”, by repealing “(指明的表格)” and substituting “(指明的格式)”;

(ii) by adding—

“ “digital signature” (數碼簽署) has the same meaning as in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

“electronic record” (電子紀錄) has the same meaning as in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

“password” (通行密碼) means any combination of letters, characters, numbers or other symbols selected by a person and approved by the Commissioner for use in systems designated by the Commissioner for the purpose of authenticating

the person's identification in communicating with the Commissioner in relation to a return required to be furnished under this Ordinance;

“recognized certificate” (認可證書) has the same meaning as in section 2(1) of the Electronic Transactions Ordinance (Cap. 553);

“return” (報稅表) includes any return furnished under section 51AA, irrespective of the manner in which that return is furnished;

“telefiling system” (電話報稅系統) means a system that enables a person to furnish to the Commissioner certain returns or information by using a telephone;”;

(b) by adding—

“(5) In this Ordinance, a reference to the act of signing a return required to be furnished under this Ordinance includes a reference to—

(a) the affixing of a digital signature (supported by a recognized certificate and generated within a period during which the certificate is valid) to; or

(b) the inclusion of a password with, the return for the purpose of authenticating or approving it.”.

3. The time and manner in which an election or the withdrawal of an election for joint assessment is to be made

Section 11 is amended—

(a) in subsection (1), by repealing “表格” and substituting “格式”;

(b) in subsection (2), by repealing “表格” and substituting “格式”.

4. Concessionary deductions, general provisions

Section 26B(2) is amended by repealing “表格” and substituting “格式”.

5. Allowances, general provisions

Section 27(2) is amended by repealing “表格” and substituting “的格式”.

6. Rates of charge

Section 43(3) is amended by repealing “表格” and substituting “格式”.

7. Returns and information to be furnished

Section 51 is amended—

- (a) in subsection (1), by repealing “, containing such particulars and in such form as may be specified by the Board of Inland Revenue”;
- (b) in subsection (2A), by repealing “表格” and substituting “格式”.

8. Section added

The following is added immediately after section 51—

“51AA. Form and manner of furnishing return, etc. under section 51

(1) Except as provided in subsection (2) or (3), a return required to be furnished under section 51(1)—

- (a) shall be furnished in paper form using a printed form specified by the Board of Inland Revenue and provided by the Commissioner; and
- (b) shall contain the particulars specified in the printed form.

(2) A return required to be furnished under section 51(1) may, in a case specified by the Commissioner, be furnished in the form of an electronic record that—

- (a) is sent using a system specified by the Board of Inland Revenue;
- (b) uses a template specified by the Board of Inland Revenue and made available by the Commissioner; or
- (c) contains the particulars specified by the Board of Inland Revenue that are arranged in a form specified by the Board of Inland Revenue.

(3) A return required to be furnished under section 51(1) may, in a case specified by the Commissioner, be furnished by using a telefiling system which—

- (a) provides for the furnishing of such particulars as may be specified by the Board of Inland Revenue; and
- (b) is made available by the Commissioner.

(4) A return shall be regarded as furnished under subsection (3) when the particulars and the password are accepted by the telefiling system.

(5) Any case to be specified by the Commissioner for the purposes of subsections (2) and (3)—

- (a) shall be specified by notice published in the Gazette; and
- (b) may be specified by reference to a class or description of persons or returns.

(6) The Commissioner may by notice published in the Gazette specify requirements as to—

- (a) the manner of generating or sending an electronic record or any attachment required to be furnished with an electronic record;
- (b) how a digital signature is to be affixed to, or a password is to be included with, a return furnished under this section; and
- (c) the software and communication in relation to any attachment required to be furnished with an electronic record.

(7) The Commissioner may approve a password and designate any system in respect of any communication with the Commissioner for the purposes of this section.

(8) A notice under subsection (5) or (6) is not subsidiary legislation.”.

9. Power to require statement of assets and liabilities, etc.

Section 51A(1) is amended by repealing “不正確” and substituting “申報不確”.

10. Power to issue search warrant

Section 51B(1)(a) is amended by repealing “不正確” and substituting “申報不確”.

11. Penalties for failure to make returns, making incorrect returns, etc.

Section 80 is amended—

- (a) in subsection (2)(a)—
 - (i) by repealing “填” where it first appears and substituting “申”;
 - (ii) by repealing “在報稅表上填” and substituting “其提交的報稅表申”;
- (b) in subsection (2), by repealing “的填” and substituting “的申”.

12. Penal provisions relating to fraud, etc.

Section 82(1) is amended—

- (a) in paragraph (a)—
 - (i) by repealing “填具” and substituting “提交”;
 - (ii) by repealing “填報” and substituting “申報”;
- (b) in paragraph (b), by repealing “填具” and substituting “提交”.

13. Additional tax in certain cases

Section 82A is amended—

- (a) in subsection (1)(a)—
 - (i) by repealing “填” where it first appears and substituting “申”;
 - (ii) by repealing “在報稅表上填” and substituting “其提交的報稅表申”;
- (b) in subsection (1)(i), by repealing “填” and substituting “申”;
- (c) in subsection (4)(a)(i), by repealing “填” and substituting “申”.

14. Board of Inland Revenue to specify forms

Section 86 is amended—

- (a) in subsection (1), by adding “or the form of any forms” after “any forms”;
- (b) in subsection (2), by adding “或格式” after “表格” wherever it appears.