Past Paper Analysis

Section	Marks	Topics	Details
2012 June			
A (50)	19	Profits Tax	Q1a – depreciation allowances - HP
Case			Q1b – profits tax computation
			Q1c – interest income/ expenses
	6	PRC Tax	Q2 – PRC BT & VAT
	17	Salaries Tax	Q3 – housing arrangement & tax planning
	8		Q4 – contract of vs. contract for services
B (50)	14		Q5a – source of employment income
Essay/			Q5b – income chargeable to salaries tax
Short Q			Q5c – share option gain DIPN 38
	6	Admin	Q5d – objection letter
	5	Profits Tax	Q6a – sale of property
	6	Stamp Duty	Q6b – sale of shares
	7	Profits Tax	Q7 – depreciation allowances – P&M (IRR 2)
	6	Profits Tax	Q8a – insurance agent DIPN 33
	6	Tax Practice	Q8b – ethics
2012 Dec			
A (50)	3	Profits Tax	Q1a – **source** of consultation fees
Case	3		Q1b – **capital or revenue** nature
	3	Profits Tax	Q2a – **Deduction** re general expenses
	4		Q2b – re additional tax expenses
	7		Q2c – re renovation & decoration
	8	Salaries Tax	Q3 – **home loan interest** deduction
	6	Stamp duty	Q4 – (a) **lease** agreement & (b) property **assignment**
	5	Salaries Tax	Q5 – **personal allowances**
	6		Q6a – **salaries tax planning**
	5	Ethics	Q6b – **ethical code** & practice
B (50)	16	Profits Tax	Q7 – **DIPN 43** offshore fund exemption
Essay/	11	Admin	Q8 – (a) & (b) **objection/ error claim & holdover claim** & (c) **business tax**
Short Q	6	China Tax	
	17	PA	Q9 – **NAI + NAV + PA computation**
2013 Jun			
A (50)	12	Salaries Tax	Q1a – salaries tax – **scope & exemption**
Case	3		Q1b – **personal allowances**
	6	Admin	Q2 – **penalty provisions**
	9	Profits Tax	Q3a – **badges of trade**
	6		Q3b – application re gain on disposal of shares 5
		Admin	Q4a – **advance ruling application**
	5		Q4b – application re advance ruling not applicable
	4	Ethics	Q5 – **ethical issue**
B (50)	4	Profits Tax	Q6a – **scope re licence fee earned by NR**
Essay/	4		Q6b – **scope re licence fee earned by HK bsuiness**
Short Q	5	China tax	Q6c – **business tax** on sale of trademark
	7	Profits Tax	Q6d – **deduction** re trademark cost
	6	Profits Tax	Q7a – **special business re club**
	6	Property Tax	Q7b – **scope & exemption**
	6	Stamp Duty	Q7c – **lease**
	9	Salaries Tax	Q8a – **NCI computation**
	3		Q8b – **MPF benefit** treatment

Section	Marks	Topics	Details
2013 Dec			
A (50)	9	Profits Tax	Q1a – **gain on sale of shares**
Case			Q1b – **stock valuation on cessation**
			Q1c – **liquidation expenses re deductibility**
	13	Stamp Duty	Q2 – **Sale of shares & distribution in specie**
	7	Profits Tax	Q3a – **chargeability of service fee**
			Q3b - **deduction of exchange loss**
	10	China Tax	Q4 – **service fee income: CIT & DTA**
	11	Salaries Tax	Q5 – **time apportionment & share award**
B (50)	16	Profits Tax	Q6 – **partnership computation & allocation**
Essay/	12		Q7 – **P&M + IPR**
Short Q	22		Q8a-c – **transfer pricing DIPN 45 - 48**
		Ethics	Q8d – **professional ethics**
2014 June			
A (50)	5	Profits Tax	Q1a – **interest income**
Case	5		Q1b – **waiver of loan**
	4		Q2 – **MPF deduction**
	16	Salaries Tax	Q3 – **2012/13 Computation**
	5	China Tax	Q4 – **Individual Income Tax**
	5	Administration	Q5ai – **field audit**
	5		Q5aii – **settlement methods**
	5	Ethics	Q5b – **offence & ethics**
B (50)	3	Profits Tax	Q6a – **business in HK**
Essay/	3		Q6b – **dividend income**
Short Q	7		Q6c – **info requested by PRC tax authority**
	7		Q7a – **basis period**
	5		Q7b – **depreciation allowances**
	7	IRO & SDO	Q8a – **purchase shop**
	11	- property income	Q8b – **purchase residential property**
	7		Q8c – **sell a residential property**
2014 Dec			
A (50)	6	Profits Tax	Q1a – **relevant sum s. 23B**
Case	5		Q1b – **interest income**
	10		Q1c – **interest deduction**
	2		Q1d – **share option deduction**
	4		Q1e – **assessable profits re ship owner**
	8	Stamp Duty	Q2 – **sale of shares**
	9	Salaries Tax	Q3a – **salaries tax charge**
	6		Q3b – **share option gain**
B (50)	8	Administration	Q4a – **revised assessments re PYA**
Essay/	4		Q4b – **penalty**
Short Q	5	Salaries Tax	Q5a – **type I arrangement**
	3	Administration	Q5b – **advance ruling**
	11	Property Tax	Q6a – **property tax computation**
	5	China Tax	Q6b – **BT & VAT**
	11	Salaries Tax	Q7a – **deduction and self-education claims**
	3	Ethics	Q7b – **professional ethics**

2015

See post-exam review and have a guess!

HKICPA QP Module D/ PC Taxation

June 2015

HKCA LEARNING MEDIA

Name: ____________________

Email: ____________________

MOCK EXAM 1

Time allowed	3 hours
Section A: Case Study	ALL questions are compulsory
Section B: Essay / Short Questions	

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<u>SECTION A – CASE QUESTIONS</u> (Total 50 marks - approximately 90 minutes)

Answer ALL of the following compulsory questions. Marks will be awarded for logical argumentation and appropriate presentation of the answers.

Century Professional Training Limited (CPT) is a Hong Kong company which has been offering tuition courses for those who sit for examinations leading to professional qualifications in accounting, finance, marketing, management, computing and other related disciplines since 1990. Many overseas tertiary institutions have been coming to Hong Kong to offer graduate and post-graduate programmes. Carlingford University, an institution funded in Country X by the Zealand Government, offers an MBA course and a BBA course in Hong Kong.

These courses require students to attend four 2-day residential schools in Hong Kong as well as other online courses and course work. These residential schools are organized by CPT in its training centres. CPT also assists in collecting the tuition fees before course commencement for Carlingford University in Hong Kong, processing student registration and launching promotional activities. The course prices are all pre-set by Carlingford University. Furthermore, as Carlingford University is a well known university, all promotion materials prominently include the university's name to attract students. The launching of the courses for this year was good, attracting a total of 100 enrolments and CES collected a total of HK$20 million in tuition fees from students of the MBA and BBA courses for the year ended 30 September 2014. Out of this, CPT kept a fixed sum of HK$4 million for organising the residential schools in its training centres, processing student registration, collecting tuition fees and launching promotional activities, and paid the entire remaining sum back to Carlingford University. Professors of Carlingford University come to Hong Kong to conduct these training courses.

(Note - The Hong Kong SAR Government has not yet signed any Comprehensive Double Tax Agreement with Zealand Government.)

CPT recently received a 2014/15 assessment notice. After cross-checking the relevant details, it noticed that a trading receipt of $100,000 originally derived in the year of assessment 2013/14 had been erroneously recorded in the 2014/15 books of accounts, and thereby assessed to profits tax in the 2014/15 assessment notice. The company's records are partially lost due to recent removal and it was difficult to retrieve all the relevant records. Mr. Chan, director of CPT, decided not to do anything to rectify the tax position for both years of assessment 2013/14 and 2014/15, and intended to settle the tax demanded for the year of assessment 2014/15 as the company's aggregate tax position for both years would be correctly reported after the tax settlement for the year of assessment 2014/15.

Mr. Wong, lecturer and staff of CPT, received his salaries tax assessment notice (2013/14 Final and 2014/15 Provisional) in the middle of October 2014. He simply set it aside without making any reminder of his own tax payment due dates. On 3 January 2015, Mr. Wong accidentally noted from the assessment notice that the first tax payment of his salaries tax liabilities was due on that day (3 January 2015), whilst the second tax payment was due on 2 April 2015. He would then like to apply for a complete holdover of the 2014/15 provisional salaries tax demanded in this notice as he retired on 1 April 2014 and did not have any income chargeable to salaries tax after his retirement.

Required:

Write a memo to the director of CPT explaining the following issues:

Question 1 (10 marks – approximately 18 minutes)

Assume each of the Professors of Carlingford University who came to Hong Kong to conduct courses stayed in Hong Kong for 40 days during the year of assessment 2014/15.

Discuss the Hong Kong tax implications of the following:

(a) Will the activities conducted by Professors of Carlingford University in Hong Kong create any permanent establishment issue and hence tax exposure in Hong Kong during the year of assessment 2014/15? (5 marks)

(b) Will the Professors of Carlingford University subject to Hong Kong salaries tax for the year of assessment 2014/15? (5 marks)

Question 2 (5 marks – approximately 9 minutes)

Assuming Carlingford University is liable to profits tax in Hong Kong during the year of assessment 2014/15, discuss the withholding obligations of CPT under the Inland Revenue Ordinance. (5 marks)

Question 3 (7 marks – approximately 13 minutes)

If Carlingford University is an university established in Beijing, discuss will your answers be different because of the CDTA entered into between HKSAR and the Mainland? (7 marks)

Question 4 (10 marks – approximately 18 minutes)

Comment on the circumstances regarding Mr. Chan's action on the company's assessment notices, and provide your recommendations including obligations that are contained in the Inland Revenue Ordinance in regard to the keeping of business records. (10 marks)

Question 5 (9 marks – approximately 16 minutes)

Comment of the penalty and prosecution action (if any) that could be taken against CPT by the Inland Revenue Department. (9 marks)

Question 6 (5 marks – approximately 9 minutes)

Comment on the circumstances regarding Mr. Wong's assessment and provide your recommendations. (5 marks)

Professional marks will be awarded for the appropriateness of the format and presentation of the memo and the effectiveness with which its advice is communicated. (4 marks)

- End of Section A -

Section B – ESSAY / SHORT QUESTIONS (Total 50 marks)

Answer ALL of the following compulsory questions. Marks will be awarded for logical argumentation and appropriate presentation of the answers.

Question 7 (18 marks – approximately 32 minutes)

Mr. So runs a trading business in Hong Kong through a Hong Kong incorporated company, So Best Co Ltd (the Company). The Company owns a residential property in Hong Kong funded by a bank mortgage. For certain personal reasons, Mr. So is considering liquidating the Company and running the business as a sole proprietor. He will then transfer the property to himself and continue with the bank mortgage under his own name.

The following is a summary of the Company's profit and loss account for the year ended 31 March 2015:

Sales		750,000
Property rental income		200,000
Purchases	(720,000)	
Salary to Mr. So	(100,000)	
Property management fees	(24,000)	
Property rates	(12,000)	
Other business expenses	(20,000)	
Bank mortgage interest	(160,000)	(1,036,000)
Profit/ (loss)		(86,000)

Mr. So is married with a new born baby in March 2015. He also attended exam training seminars organized by a professional body and paid HK$2,500 during the relevant year.

Required:

Advise Mr. So on how his tax and stamp duty position would be affected by the proposed liquidation. In your answer, also explain relevant administration issues.

Note: you are NOT required to calculate the actual tax liabilities either before or after the change.

(18 marks)

<u>Question 8</u> (12 marks – approximately 22 minutes)

In early 2014, the worldwide media reported that there were defects in the design of the braking system of one of the best selling models, Model K of GPT, another local subsidiary company of USA Corp. in Hong Kong. The manufacturer of Model K announced the recall of over 300,000 units of the model in North America. It was also reported that a few fatal accidents were suspected to be caused by the defects and the victims had raised claims against the dealers and manufacturers for damages. GPT had sold Model K in Hong Kong in the last few years.

This development led to the early termination of the distributorship agreement for Model K in Hong Kong in March 2014. Originally, this distributorship agreement would have been terminated in December 2015. After negotiation, the manufacturer and GPT agreed to terminate the distributorship agreement immediately and GPT received a sum of HK$30 million from the manufacturer.

In May 2014, a claim was made against GPT in court by a Hong Kong customer who had bought a Model K, on the grounds that the car bought from GPT was faulty and sub - standard. The case was settled and a sum of HK$2.5 million was paid to the customer.

Ms. Nancy Tse, GPT's General Manager, has concern about the Hong Kong Profits Tax treatments of the sum of HK$30 million received by GPT from the manufacturer of Model K upon termination of the distribution agreement of Model K in March and the sum HK$2.5 million paid by GPT in settling the claim made by a Hong Kong customer in May. You will have a preliminary meeting with Nancy next week.

<u>Required:</u>

For the preliminary meeting,

(a) Prepare a list of additional information that you will discuss and clarify with Nancy in the preliminary meeting in order for you to make a proper analysis before you give your advice. (5 marks)

(b) Analyze the <u>possible</u> treatments of the two mentioned sums under Hong Kong Profits Tax. (7 marks)

Question 9 **(20 marks – approximately 36 minutes)**

Handsome Group Limited ("HGL") is the parent holding company of a conglomerate ("the Group") listed on the Hong Kong Stock Exchange, with significant investments in various business sectors including infrastructure, telecommunications, investment and financing and trading. Ms. Amy Lam is the Sales Director of a Group company, HG Glory Limited ("HGG"), engaged in the trading of HG branded products ("HG products") in Hong Kong.

Based on Amy's proposal, the BVI company, HG BVI Company Limited ("HBC"), will share the office of HGG in Hong Kong and Amy will be appointed as one of the directors of HBC. HBC will not trade with Hong Kong suppliers and customers. Amy's team will travel to Japan and Korea to attend the trade fairs of HG products. They will negotiate and determine the purchase price there and place their purchase orders. During the trips, the team will also decide a "pre-determined range of sale price" for the China market. The salespersons employed by HBC will spend most of their working time in China to negotiate and solicit distributors during their business travels. The distributors will place their purchase orders with the salespersons in China. The salespersons will have the authority to accept purchase orders if they are within the pre-determined range of sale price. However, the salespersons will not seek approval from Amy for any "out-of-range" transactions and these orders will be rejected. The salespersons will report their business to Amy during the monthly conference calls or meetings in Hong Kong. Board meetings of HBC will be held in Hong Kong. If Amy is travelling, she will join the meeting via a conference call. The HG products will be shipped from Japan/Korea to the Chinese distributors, without passing through Hong Kong. Letters of credit will be arranged by the back office staff of HBC in Hong Kong to settle the payable to the Japan/Korea suppliers, whether third party suppliers or HGG overseas subsidiaries, via a bank account kept in Hong Kong, which is also used for the settlement of trade receivables.

During the monthly Board of Directors Meeting of HGG for April 2015, the following initiatives have been discussed and tentatively agreed:

(1) HBC, a BVI company, will be set up and designated to deal with the new HGG trading business in the China market.
(2) Handsome International Limited ("HIL"), a wholly-owned subsidiary of HGG, will hold 100% ordinary shares (denominated in USD) in HBC.
(3) HIL will control the strategic and operational activities of HBC and provide additional funding, either in short-term or long-term loans to HBC, if necessary.
(4) The Board of HBC will have 3 directors who are also common directors of HGG.
(5) HBC will arrange trade finance facilities and open bank accounts with banks in Hong Kong to handle the import/export trading business with parent company guarantees provided by HGG.
(6) HBC will purchase HG products from HGG subsidiaries or third party suppliers which are invoiced and settled in USD.
(7) HBC's sales of HG products in China will be invoiced and settled in Chinese Yuan (i.e. Renminbi ("RMB")).
(8) HBC's Hong Kong or local expenses, such as staff costs and administrative expenses, will be settled in HKD.
(9) HBC will adopt a simple set of treasury policies which stipulates that borrowings or debts are in USD and cash reserves are in RMB or USD.
(10) HBC will use treasury products, such as cross-currency swaps or currency forward contracts for hedging purposes, in accordance with HGL Group treasury and risk management policies.

Required:

(a) Discuss whether there are any tax exposures for HBC in Hong Kong and whether the "non-taxable claim" is likely to succeed, from a Hong Kong profits tax perspective.
(14 marks)

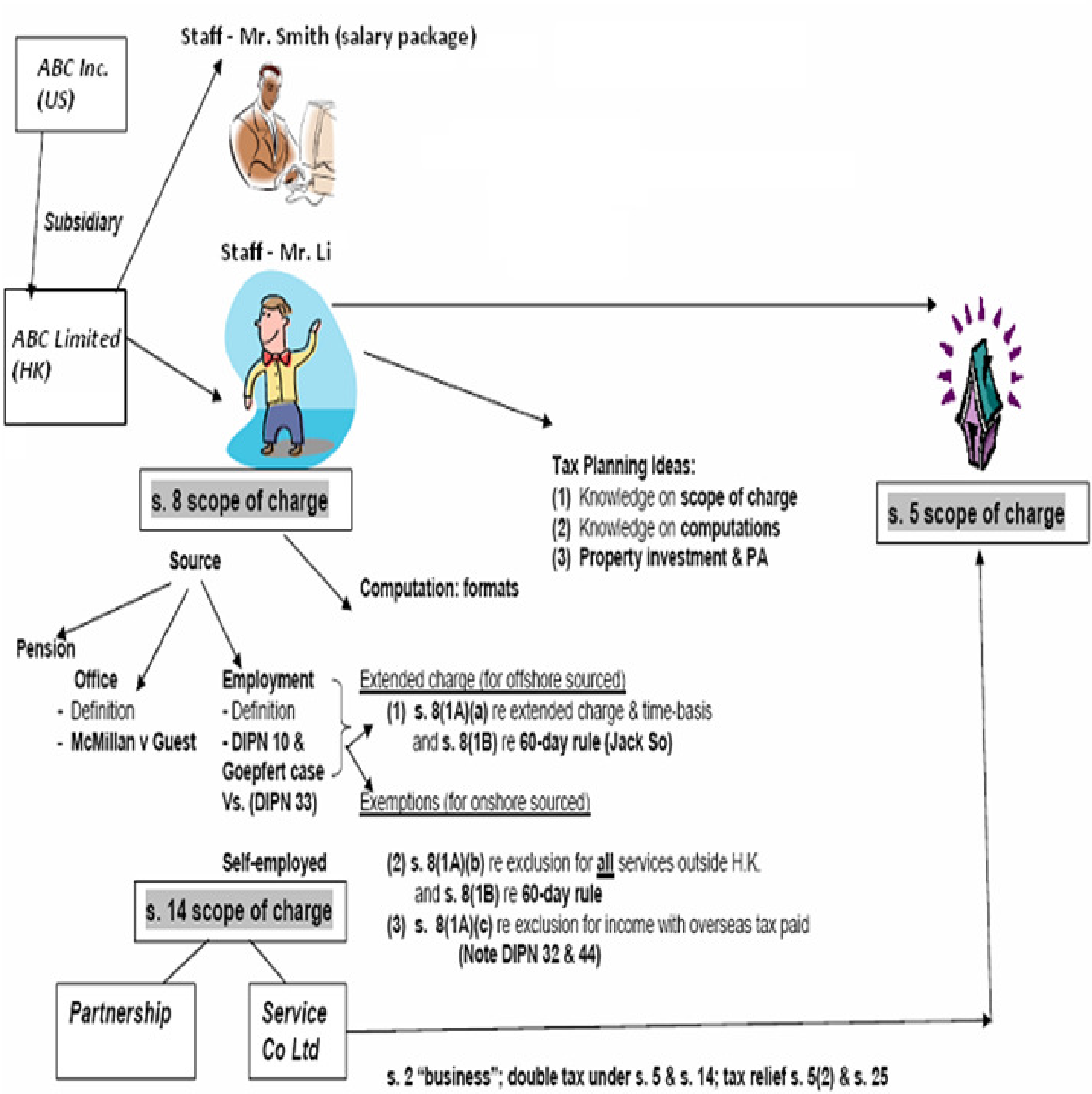
(b) Discuss whether the activities of the HBC salespersons will create any China Enterprises Income Tax exposures for HBC from a China Tax perspective.
(6 marks)

- End of MOCK EXAM 1-Question Paper -

B) Individual Income Tax

Taxation for Individual

Director – Mr. Garvie



Standard Tax Computation Formats Re Individual Taxpayer

Name of taxpayer
Salaries tax computation
Year of assessment 2014/2015
Basis period: year ended 31 March 2015

		$	$	
Income from principal employment/office			A	s.9(1)(a)
Less:	Allowable outgoing and expenses	B		s.12(1)(a)
	Depreciation allowances	C	D	s.12(1)(b)
			E	
Add:	Rental value	F		s.9(1)(b)
	Less: rent suffered	G	H	s.9(1)(c)
			I	
Add:	Income from other employment	J		
	Qualified lump sum received	K		s.11D(b)
	Gain on share option (DIPN 38)	L		s.9(1)(d)
			M	
Less:	Self-education expenses		(Q)	s.12(1)(e)
Net assessable income			R	s.12
Less:	Concessionary deductions			Part IVA
	Approved charitable donations (DIPN 37)	S1		s.26C
	Elderly residential care expenses (DIPN 36)	S2		s.26D
	Home loan interest (DIPN 35)	S3		s.26E/F
	Contributions to MPF (from 2000/2001)	S4	(S)	s.26G
			T	
Less:	Personal allowances		(U)	Part V
Net chargeable income			V	
			==	
Tax thereon (lesser of V @progressive rate or T@15%)			W	s.13
			==	

Note: For 2014/15, 75% of the final tax payable under salaries tax, profits tax and tax under PA would be waived, subject to the maximum of $20,000 per case (proposed in 2015/16 budget).

MPF – MPF per month is HK$1,250 maximum ($1,500 from June 2014) (s. 26G(2)(b)).
Section 16AA: A sole proprietor or a partner in a partnership may also claim MPF deduction.

Property Tax Computation Format

Taxpayer's name

Year of assessment 2014/2015

Basis period: Year ended 31 March 2015

	$
Rent	A
Premium	B
Bad debt recovered	C

	D
Less: Bad debts (irrecoverable rent)	(E)

Assessable value	F
Less: Rates (paid by owner)	(G)

	H
Less: Statutory deduction 20% of H	(I)

Net assessable value	J
	===
Property tax thereon @ 15%	K
	===

Notes: F - if negative, relate back – s.7C(3); D, F, H, - if negative, no property tax; I - no other deduction e.g. management fees and repairs (exception re mortgage interest under PA).

✐ For married case (PA)

Taxpayers' name

Year of assessment 2014/2015

Basis period: year ended 31 March 2015

	Husband	Wife	Joint
	$	$	$
Net assessable value	A1	A2	
Net assessable income (i.e. before concessionary deductions)	B1	B2	
Assessable profits (i.e. after deduction of donations)	C1	C2	
	----	----	
	D1	D2	
Less: Interest expenses (not exceeding A1, A2 above)	(E1)	(E2)	
	-----	-----	
Total income	F1	F2	
Less: Charitable donation	(G1)	(G2)	
Other concessionary deductions	(H1)	(H2)	
Business loss	(I1)	(I2)	
	-----	-----	
	J1	J2	
Less: Loss b/f or loss from other spouse	(L1)	(L2)	
	-----	-----	
Reduced total income	M1	M2	M
Less: Personal allowances			(N)

Net chargeable income ^			O
			===

^ Apply limitation test (lesser of standard rate on M and progressive rate on O). The tax payable by Husband and Wife is in the proportion of M1/M and M2/M respectively.

Note: For 2014/15, 75% of the final tax payable under <u>salaries tax, profits tax and tax under PA</u> would be waived, subject to the maximum of $20,000 per case (proposed in 2015/16 budget).

SDO

The following instruments are dutiable.

Head	Instrument	Stamp Duty
1 (1)	Conveyance on sale	HK$100 or 0.75 - 4.25% on the higher of consideration and market price (Scale 2).
1 (1A)	Agreement for sale of residential property	HK$100 or 0.75 - 4.25% on the higher of consideration and market price (Scale 2).
1(2)	Lease of immovable property:	
	With premium only	Same as conveyance on sale. (HK$100 or 0.75 - 4.25% on the higher of consideration and market price).
	With premium + rent	4.25% on premium +
	Lease term ≤ one year	0.25 % on total rent payable, or
	Lease term not specified	0.25 % on average yearly rent, or
	Lease term > one year but ≤ three years	0.5% on average yearly rent, or
	Lease term > three years	1% on average yearly rent.
	A lease executed in pursuance of a duly stamped agreement for lease	HK$3

Section/ Authority | Conditions | HKCA LEARNING MEDIA | Remark

SDO

Head	Instruments	Stamp Duty
2(1)	Contract note, not jobbing business	0.2% (0.1% on bought note, 0.1% on sold note).
2(2)	Contract note, jobbing business	HK$5
2(3)	Instrument of transfer for voluntary disposition inter vivos	HK$5 + 0.2% on value of stock.
2(4)	Instrument of transfer for any other kind	HK$5
3(1)	Hong Kong bearer instrument	3% on market value.
3(2)	Instrument in substitution for duly stamped instrument under Head 3(1)	HK$5
4	Duplicates and counterparts of chargeable instruments	HK$5

SDO

Stamp Duty - On a sale of Transfer of Immovable Property in Hong Kong:

With effect from 1 April 2010, stamp duty on sale of immovable property in Hong Kong is charged at rates which vary with the amount or value of the consideration as follows:

Amount or value of the consideration Exceeds	Does not Exceed	Rate (scale 2)
	$2,000,000	$100
$2,000,000	$2,351,760	$100 + 10% excess over $2,000,000
$2,351,750	$3,000,000	1.5%
$3,000,000	$3,290,320	$45,000 + 10% excess over $3,000,000
$3,290,320	$4,000,000	2.25%
$4,000,000	$4,428,570	$90,000 + 10% excess over $4,000,000
$4,428,570	$6,000,000	3%
$6,000,000	$6,720,000	$180,000 + 10% excess over $6,000,000
$6,720,000	$20,000,000	3.75%
$20,000,000	$21,739,120	$750,000 + 10% excess over $20,000,000
$21,739,120		4.25%

See updates re double stamp duty.

Section/ Authority Conditions Remark

Stamp Duty - On a sale of Transfer of Immovable Property in Hong Kong:

With effect from 23 Feb 2013, except for exemption, stamp duty on sale of immovable property in Hong Kong is charged at rates which vary with the amount or value of the consideration as follows:

Amount or value of the consideration Exceeds	Does not Exceed	Rate (scale 1)
	$2,000,000	1.5%
$2,000,000	$2,176,470	$30,000 + 20% excess over $2,000,000
$2,176,470	$3,000,000	3.0%
$3,000,000	$3,290,330	$90,000 + 20% excess over $3,000,000
$3,290,330	$4,000,000	4.5%
$4,000,000	$4,428,580	$180,000 + 20% excess over $4,000,000
$4,428,580	$6,000,000	6%
$6,000,000	$6,720,000	$360,000 + 20% excess over $6,000,000
$6,720,000	$20,000,000	7. 5%
$20,000,000	$21,739,130	$1,500,000 + 20% excess over $20,000,000
$21,739,130		8.5%

SDO

Heads of Charge

Documents are subject to stamp duty if they fall within the above **4 charging heads** of the Stamp Duty Ordinance. In Hong Kong, stamp duty is levied on the instruments of transfers of shares and immovable property.

- The differentiation of premises in terms of "**residential property**" or "non-residential property" is by reference to their permitted use rather than their actual use (**SOIPN 1 (Revised)**). The IRD expresses its views in the **SOIPN 1 (Revised)** that **"agreement for sale"** also includes various **instruments** involving rights to **immovable property** which might otherwise be used to circumvent the provisions. However, non-binding agreements which are not intended to create legal relations are not intended to be caught, such as an agreement which is subject to contract. The related conveyance will still be chargeable with a fixed **stamp duty** of $100 after the agreement has been so stamped. The applicable rate on **conveyance** of the property is 8.5% (max.) on the consideration of the sales agreement.

- In respect of liable persons, all parties to a conveyance and any other persons executing the conveyance are jointly and severally liable for the duty payable though in market practice the purchaser is liable to pay. Persons obtaining a vesting order consequential upon an order for sale, partition or foreclosure order are also liable for the duty payable. For timing of stamping, the **conveyance on sale** including deed of gift shall be stamped within 30 days after the date of execution, i.e. the date the document is signed.

- The **lease** agreement for immovable property is dutiable under **Head (1)(2)**. If the term of the lease is over 3 years, the stamp duty payable is 1% of the annual rent. Section 45 exemption is not applicable to lease agreements.

- The dutiable documents for transfer of HK shares are the **bought and sold notes**, and the **instrument of transfer**. The bought and sold notes are dutiable under **Head 2(1)** and the stamp duty on each note is **0.1%** of the consideration for the transfer or the market value whichever is the higher. The instrument of transfer is dutiable under **Head 2(4)** and the stamp duty is **$5**.

SDO

Section

27/ 24

<u>Valuation</u>

Gift or inadequate consideration would be regarded as a **voluntary disposition *inter vivos*** for Stamp Duty purposes (**section 27(4)** of the Stamp Duty Ordinance) and market value is used. Under section 27(1) of that ordinance, Stamp Duty is chargeable on the market value of the property transferred.

- **Deemed consideration under s. 24 (SOIPN 3)**

Pursuant to Section 24(1) of the SDO, in the case of a conveyance on sale or any transaction whereby a beneficial interest in Hong Kong stock passes, where the conveyance or transaction is in consideration, wholly or in part, of any <u>debt due to the transferee</u> or is subject either certainly or contingently to the <u>payment or transfer of any money or stock</u>, whether or not being or constituting a charge or incumbrance upon the property or interest so conveyed or passing, <u>the debt, money or stock is to be deemed</u> the whole or part (as the case may be), of the <u>consideration</u> by reference to which the conveyance or contract note is chargeable with stamp duty.

Pursuant to Section 24(3) of the SDO, when there is a transfer of a beneficial interest in a body corporate and the <u>transferee will incur liability in respect of any indebtedness of the body corporate</u>, the amount of the <u>indebtedness will form part of the consideration</u> of the transfer. Reference may be made to Stamp Office Interpretation and Practice Notes No. 3 for guidance on deemed consideration under Section 24 of the SDO.

Certificate of value – Section 29 requests a certificate stating that the transaction does not form part of a larger transaction (or series of transactions). The duty payer has to declare the consideration is full value for the transaction.

Contingency Principle

Also refer to contingency principle: Duty is assessed on the basis of the circumstances prevailing at the time an instrument is executed. Liability cannot be altered by subsequent events.

Rules on stampable consideration

Contained in document	Basis for stamp duty
Consideration not ascertainable	Nil
Maximum and minimum amount provided	Max
Minimum amount provided	Min

Section/ Authority Conditions HKCA LEARNING MEDIA Remark

SOIPN

SOIPN Reference:

No.	Stamp Office Interpretation and Practice Notes	Date issued
1.	Stamping of agreements for sale and purchase of residential property	Oct 2014
2.	Relief for stock borrowing and lending transactions	February 2011
3.	Deemed consideration under section 24 of the Stamp Duty Ordinance, Cap.117	September 1998
4.	Deemed sale and purchase under section 19(1E) of the Stamp Duty Ordinance, Cap.117	25 January 2000
5.	Special Stamp Duty	July 2014
6.	Alternative Bond Schemes	Aug 2014
7.	Buyer's Stamp Duty	July 2014
8.	Ad Valorem Stamp Duty	October 2014

Exemptions from stamp duty

Exemptions from stamp duty

➢ **No change of benefit interest**

- If transferor would not have any beneficial interest in the property, i.e. no beneficial interest is transferred upon the assignment, hence by virtue of **section 27(5)** of the Stamp Duty Ordinance, section 27(1) would not apply to substitute the market value for the consideration of the conveyance. However, strong evidence has to be submitted to the Collector of Stamp Revenue.

➢ **Group relief**

- Exemptions are available for intra-group transfers of shares or immovable property from one associated body corporate to another under **Section 45** of the Stamp Duty Ordinance ("SDO"). They should obtain adjudication for Section 45 relief. **"ASSOCIATED"** (i.e. when one is the beneficial owner of at least 90% of the issued share capital of the other, or when a third company is the beneficial owner of at least 90% of the issued share capital of each.)

- **Adjudication** (a formal assessment procedure re section 13) is compulsory for application for exemption under Section 45 of the SDO. To qualify for the Section 45 exemption, the transferor and transferee companies have to remain associated for at least two years after the transfer. If they cease to be associated within the two-year period, the stamp duty exemption will be revoked and duty is payable within thirty days of the change. Following anti-avoidance provisions prevent the abuse of Section 45 relief.

Section/ Authority Conditions HKCA LEARNING MEDIA Remark

Exemptions from stamp duty

- If any part of the **consideration** for the transfer of immovable property or Hong Kong stock between associated companies was provided by an unrelated non-associated person, Section 45 relief is not applicable (Section 45(4)(a)).

- If money has been obtained from a bank for the purpose of acquiring the property from an associated body corporate, the Collector of Stamp Revenue has issued a ruling stating that as long as he is satisfied that the loan was made by a bank or a deposit-taking company in the ordinary course of business, and that neither the bank and the deposit-taking company had any interest in the property other than as security, the provision of the purchase money by that bank or deposit-taking company would not cause a denial of the Section 45 relief **(Arrowtown case).**

- If there is an arrangement at the time of the transfer of immovable property or Hong Kong stock that the two companies will cease to be associated, even after **two years** of the transfer, Section 45 relief is not applicable (Section 45(4)(c)).

SD Administration

SD administration

All dutiable instruments must be stamped either before execution or within a certain period of time after execution, as follows:

Instrument	Time Limit for Stamping (see also new AVD)
Conveyance on sale of immovable property in HK	Thirty days after execution.
Lease of immovable property in HK	Thirty days after execution.
Contract notes (i.e. bought note and sold note) of HK stock	Two days after the sale or purchase if effected in HK; or Thirty days after the sale or purchase if effected outside HK.
Instrument of transfer of HK stock	Before execution; or if executed elsewhere than in HK, thirty days after execution.
HK bearer instrument	Before issue.
Duplicates and counterparts	Seven days after execution or such longer period as the time for stamping the original instrument would allow.

Section/ Authority Conditions HKCA LEARNING MEDIA Remark

SD Administration

- When an instrument which is chargeable to stamp duty is not stamped within the time specified, it can thereafter be stamped only upon payment of the duty owing and a penalty. For delays not exceeding one month, the penalty is two times the amount of duty payable. For delays of more than one month but not exceeding two months, the penalty is four times the amount of duty payable. For delays over two months, the penalty is ten times the amount of duty payable.

- The **Collector** has the discretionary power to remit the whole or any part of the **penalty**. **Appeal** against assessment procedures (Pursuant to **Section 14** of the SDO).

- Any dutiable instrument not stamped within the specified time can only be stamped upon payment of the stamp duty and a penalty ranging from twice to ten times the duty, depending on the length of the delay in stamping (**section 9(1)** of the SDO). The Collector of Stamp Revenue may take civil action against any person or persons liable for the payment of duty to recover the unpaid duty and any penalty (section 4(3)).

- Any **dutiable instrument** which is not stamped is not admissible as evidence in any proceedings except in (i) criminal proceedings (s. 15(1)(a)), (ii) civil proceedings instituted by the Collector of Stamp Revenue for recovery of stamp duty (section 15(1)(b)), and (iii) in civil proceedings, if the Court so orders, upon the personal undertaking of a solicitor to pay the stamp duty and penalty thereon or if the instrument is endorsed by the Collector (section 15(1A)). Furthermore, such instrument cannot be acted upon, filed or registered by any public officer (section 15(2)).

- **Section 11(1) of the SDO** then requires that all the facts and circumstances which affect the liability of an **instrument** to **stamp duty** must be set forth fully and truly in the **instrument**.

False disclosure with an intent to defraud the Collector is regarded as having committed an offence (**section 11(2) of the SDO). The** duty liable person will subject to a fine at level 6 and to imprisonment for 1 year (**section 60 of the SDO**).

The Collector may also refuse to stamp the **instrument** or stamp the **instrument** subject to such conditions as he thinks fit in case any facts or circumstances affecting the liability or the amount of **stamp duty** chargeable on the **instrument**, have not been fully and truly set forth in the **instrument** (**section 11(4) of the SDO).**

SSD

Introduction to Special Stamp Duty (SSD)

Scope of SSD

SSD is imposed on transactions of residential properties for all values if the property is acquired by the vendor on or after 20 November 2010 and resold within 24 months after acquisition.

Effective date

Subject to the enactment of the new legislation (enacted on 30 June 2011 – see also SOIPN 5 (Revised)), SSD will be effective from 20 November 2010. Besides, the SSD would only be payable after the new law has come into force, but would take effect as from the aforesaid effective date. In respect of agreements for sale executed between 20 November 2010 and the date of the entry into force of the new law, any applicable SSD has to be paid within 30 days from such date.

SSD rates

The SSD payable will be calculated based on the stated consideration for the transaction or the market value of the property as assessed by the Commissioner of Inland Revenue, whichever is higher, at the following regressive rates for different holding periods by the seller before the transaction-

(i) 15% if the vendor has held the property for six months or less;

(ii) 10% if the vendor has held the property for more than six months but for 12 months or less; and

(iii) 5% if the vendor has held the property for more than 12 months but for 24 months or less.

SSD

The SSD is not calculated based on the profits from the property transactions. Note the further enactment by the Legislative Council that the period for SSD would be 36 months if the property was acquired on or after 27 October 2012 (Head 1(1B)), and the applicable rates are as follows:

(i) 20% if the property has been held for six months or less;

(ii) 15% if the property has been held for more than six months but for 12 months or less; or

(iii) 10% if the property has been held for more than 12 months but for 36 months or less.

Persons liable to pay the SSD

The Government proposes that both the seller and the buyer, be it an individual or a company, will be held jointly and severally liable for the payment of the SSD. This is in line with the current law. To protect the interest of the buyer and the seller, the Stamp Office suggests that the following terms be specified in the provisional sale and purchase agreement as well as in the formal sale and purchase agreement:

(i) which party (the buyer or the seller) shall pay the stamp duty; and

(ii) whether the stamp duty includes the SSD.

SSD

In case the seller has agreed to pay the SSD, remind the buyer that he may need to specify in the agreement for sale (provisional and formal) to withhold part of the sale proceeds to pay for the SSD. To deter non-compliance, the existing statutory sanctions under the Ordinance will be extended to cover the SSD. Any person who fails to pay the SSD by the deadline for payment shall be liable to penalties up to 10 times the amount of the SSD payable. The evasion of SSD by fraudulent practice shall be a criminal offence, as with the evasion of normal stamp duty under the existing Ordinance.

Exemptions (see SOIPN 5)

In following cases, sale or transfer of a property will be exempt from the SSD:

- nomination of the spouse, parents, children, brothers or sisters to take up the assignment of the **residential property**, and sale or transfer of the **residential property** to the spouse, parents, children, brothers or sisters.
- addition/deletion of name(s) to/from a chargeable **agreement for sale** or a **conveyance on sale** in respect of the **residential property** if the person(s) is the spouse, parents, children, brothers or sisters of the original purchaser(s).
- sale or transfer of residential properties by a court order/pursuant to a court order.
- sale of the estate of a deceased person, which involves **residential property**, by the executor or personal representative; and sale or transfer of a **residential property** by a person whose property is inherited from a deceased person's estate or passed to that person under the right of survivorship.
- **residential property** sold relates solely to a bankrupt's estate or the property of a company which is being wound up by the court by reason of its inability to pay debts.
- sale of mortgaged residential properties in various forms by a mortgage which is a financial institution within the meaning of **section 2 of the IRO**, or by a receiver appointed by such a mortgagee.
- sale or transfer of residential properties to the Government.
- sale or transfer of residential properties between **associated bodies corporate**.

BSD – SOIPN 7

Buyer's stamp duty ("BSD")

On 26 October 2012, the Financial Secretary announced that the HKSAR would introduce BSD on residential properties with effect from 27 October 2012. The relevant provisions are set out in the Stamp Duty (Amendment) Bill 2012 which was gazetted on 28 December 2012. Upon enactment of the relevant legislation, any residential property acquired by any person (including an incorporated company) except for a HK permanent resident will be subject to the BSD (SOIPN 7).

BSD is imposed on top of the existing ad valorem stamp duty and SSD, if applicable, on a chargeable AFS of residential property under s.29CB and Head 1(1C); or a conveyance on sale under s.29DB and Head 1(1AAB). BSD is charged at flat rate of 15% on the stated consideration or the market value of the property, whichever is higher.

Exemption from BSD is granted when evidence is shown to the satisfaction of the Collector that the person is a Hong Kong permanent resident (HKPR) acting on his/her own behalf in acquiring the residential property (i.e. the person is both the legal and beneficial owner). In order to examine any claim for the BSD exemption, the IRD requires each applicant to declare, by virtue of the Oaths and Declarations Ordinance, that he/she is a HKPR and was 'acting on his/her own behalf' in the acquisition of the residential property.

BSD has to be paid within 30 days after the execution of the chargeable document. For chargeable documents executed between 27 October 2012 and the date on which the Stamp Duty (Amendment) Ordinance 2014 was published in the Gazette (i.e. 28 February 2014), BSD had to be paid on or before 31 March 2014.

The buyer or the transferee who is not a HKPR is liable to pay the BSD. A HKPR is defined as a person who: (a) Holds a valid permanent identity card (PIC) under the Registration of Persons Ordinance; or (b) Is eligible to, but exempted from, applying for the issue of a PIC under regulation 25(e) of the Registration of Persons Regulation (the aged, the blind or the infirm).

Remark: Although BSD will not apply to HKPRs, it will apply to companies that acquire residential properties, regardless of whether they are controlled by or have any shareholders or directors who are HKPRs. A non-HKPR acquiring a residential property in the capacity of a trustee on behalf of a HKPR is liable to pay BSD, unless the HKPR is a mentally incapacitated person.

➢ Exchange of residential properties

If a non-HKPR uses his/her residential property to exchange for another residential property and has to pay a sum of money (i.e. equality money) which represents the difference in value of the two properties, BSD is charged on the instrument with reference to the equality money and the non-HKPR is regarded as the buyer.

If a non-HKPR uses his/her non-residential property to exchange for a residential property, BSD is charged on the instrument with reference to the value of the residential property and the non-HKPR is regarded as the buyer.

➢ Refund of BSD

If a chargeable AFS is cancelled (other than for further resale such as confirmor sale or nomination of another buyer), the buyer can apply for refund of the BSD within two years after the AFS is cancelled.

➢ Exemptions from BSD

BSD will be exempted under the following circumstances:

(i) Acquisition of a residential property by a HKPR jointly with a close relative(s) (i.e. spouse, parents, children, brothers and sisters) who is/are not HKPR and each of the purchasers is acting on his/her own behalf;

(ii) Transfer of a residential property to a close relative who is not a HKPR, or to a close relative(s) jointly one or more of whom is/are not HKPR and each of the transferees is acting on his/her own behalf;

(iii) Nomination of a close relative(s) who is/are not HKPR to take up the assignment of a residential property and each of the nominees is acting on his/her own behalf;

(iv) Addition/deletion of name(s) of a person(s) who is/are not HKPR to/from a chargeable AFS or a conveyance on sale in respect of a residential property if the person(s) is/are a close relative(s) of the original purchaser(s) and each of the persons is acting on his/her own behalf;

Section/ Authority Conditions Remark

(v) Acquisition or transfer of a residential property by a court order or pursuant to a court order, which includes a foreclosure order obtained by a mortgagee whether or not it falls under the definition of a financial institution within the meaning of s.2 of the IRO;

(vi) Transfer/vesting of a mortgaged residential property under a conveyance to/in its mortgagee that is a financial institution within the meaning of s.2 of the IRO, or a receiver appointed by the mortgagee;

(vii) Acquisition or transfer of a residential property by or to a body corporate from an associated body corporate;

(viii) Acquisition of a residential property by a person acting on his/her own behalf to replace another residential property that was owned by that person and that has been

– Purchased or acquired pursuant to redevelopment projects pursued by the Urban Renewal Authority; or – Resumed under an order made under s.3 of the Lands Resumption Ordinance or purchased under s.4A of that Ordinance; or – Sold pursuant to an order for sale made by the Lands Tribunal under the Land (Compulsory Sale for Redevelopment) Ordinance; or – Resumed under an order made under s.4(1) of the Mass Transit Railway (Land Resumption and Related provisions) Ordinance; or – Resumed under an order made under s.13(1) of the Roads (Works, Use and Compensation) Ordinance; or – Resumed under order made under s.16 or 28(1) of the Railways Ordinance; or – Acquired under an acquisition order made under s.3(1) or (2) of the Land Acquisition (Possessory Title) Ordinance; or – Resumed under an order made under s.37(2) of the Land Drainage Ordinance.

(ix) Acquisition or transfer of residential properties by or to the Government; and

(x) Gift of residential properties to charitable institutions exempted from tax under s.88 of the IRO.

If a residential property is jointly acquired by a HKPR and a non-HKPR who is not a close relative of the HKPR, there will not be any exemption from BSD. BSD will be payable on the stated consideration or full value of the property, whichever is the higher, regardless of the share of interest of the non-HKPR in the property.

A residential property which is inherited by a non-HKPR from a deceased person's estate under a will, the law of intestacy or right of survivorship by a beneficiary is exempted from stamp duty, which is defined under the SDO to include ad valorem stamp duty, SSD and BSD.

➢ Relief for residential property acquired by a non-HKPR for redevelopment

A non-HKPR acquiring a residential property for redevelopment can apply to the Collector for a refund of the BSD paid after the person, or if the person is a body corporate, jointly with its associated body corporate, has become the owner of the entire lot to be redeveloped and

(a) Either has obtained consent to commence any foundation works for the lot (whether or not together with any other lot) from the Building Authority under the Buildings Ordinance;

(b) Or has (i) Demolished or caused to demolish all buildings (if any) existing on the lot, other than a building the demolition of which is prohibited under any Ordinance; and (ii) Obtained approval of plans in respect of building works to be carried out on the lot (whether or not together with any other lot) from the Building Authority under the Buildings Ordinance.

If the residential property is subsequently transferred by a body corporate to an associated body corporate, the latter may also, under the aforesaid conditions, apply for a refund of the BSD paid by the former.

Relevant documents are required for claiming exemption from BSD. See also BSD examples (SOIPN 7).

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AVD – SOIPN 8

Ad valorem stamp duty (“AVD”)

On 22 February 2013, the Financial Secretary announced that the HKSAR would amend the **SDO** to adjust the **AVD** rates and to advance the charging of **AVD** on non-residential property transactions from the **conveyance on sale** to the **agreement for sale**.

Any **residential property** (except that acquired by a HK permanent resident who does not own any other **residential property** in HK at the time of acquisition) and non-residential property acquired on or after 23 February 2013, either by an individual or a company, will be subject to the new rates of **AVD** upon the enactment of the relevant legislation. Transactions which took place before 23 February 2013 will be subject to the original **stamp duty** (scale 2) regime (SOIPN 8).

End of Part D – Stamp Duty

MD/PC TAXATION - Suggested Answers (June 15)

Section A

Answer 1 (b)

The Professors
The professors of Carlingford University are under foreign employment and only income attributable to services performed in Hong Kong are subject to Salaries Tax (s.8(1) and s.8(1A)(a)). However s.8(1B) provides that services performed during visits of no more than 60 days in the basis period for the relevant year of assessment can be ignored for the purposes of considering services performed in Hong Kong under s.8(1A). Since these professors were not resident in Hong Kong and their principal place of work was not in Hong Kong, their presence in Hong Kong could be considered as visits. As they were in Hong Kong for less than 60 days during the year of assessment 2014/15, they would be exempt from Hong Kong salaries tax.

Answer 6

Under s.63E(2)(b) or (c) of the IRO, Mr. Wong is eligible to apply for the holdover of 2014/15 provisional tax as he has retired since 1 April 2014, and the net chargeable income during the year of assessment assessed to provisional salaries tax is likely to be less than 90% of the net chargeable income for the year preceding the year of assessment or he has ceased to derive income chargeable to salaries tax. However, under s.63E(1)(a), the deadline for Mr. Wong to lodge the holdover of the tax due on 3 January 2015 has lapsed as the holdover application had to be lodged 28 days before the payment due date.

The Commissioner of Inland Revenue has no discretionary power to extend the time limit for a holdover application. Therefore, Mr. Wong can no longer make a valid application for holding over the provisional salaries tax due on 3 January 2015 after the application deadline.

However, on the basis that Mr. Wong settled the tax liability due on 3 January 2015, he can apply to hold over the second tax payment due on 2 April 2015 by lodging the application 28 days before the due date i.e. to be lodged on or before 5 March 2015. If Mr. Wong does not settle the tax liability due on 3 January 2015, the full amount of tax (both in the first and second installments) becomes due and payable immediately.

Section B

Answer 7

Profits tax liability and tax rate

Under s.14, any person carrying on a trade, profession or business in Hong Kong will be subject to Hong Kong profits tax in respect of profits arising from that trade, profession or business in Hong Kong. This applies regardless of whether the business is being carried on by a limited liability company or by a sole proprietorship. However, the applicable tax rate is different. The current statutory tax rate for the Company is 16·5% whereas after the change, the tax rate for the sole proprietorship will be only 15%. **2**

Tax treatment of salary

Currently, the salary payable to you will be tax deductible in calculating the Company's profits tax liability on the basis that the salary is incurred in the production of assessable profits. The Company is a separate legal entity which may enter into an employment contract with you. The fact that you are the shareholder of the Company is not relevant.

On the other hand, when the business is being run as a sole proprietorship, the salary would be regarded as a withdrawal of profit from the business and not considered as tax deductible in calculating the assessable profits. This principle applies to all other payments made to you including interest on loans and rental. Therefore, the assessable profits of the business will be increased. **2**

To you, the salary you currently receive as an employee is subject to salaries tax on the basis that the salary is income arising in or derived from an employment sourced in Hong Kong. As the annual salary is $100,000, which is less than the current statutory basic allowance, there should be no salaries tax payable by you. After the change, the salary received from the sole proprietorship is deemed as withdrawal of profit and will not be subject to salaries tax. **2**

Profit repatriation

At the end of each year, any after-tax profits can be declared by the Company and distributed to you in the form of dividend. This dividend will not be taxable in your hands. After the change, any after-tax profits of the sole proprietorship business may be withdrawn by you when required. From a tax perspective, this is neutral since such withdrawal is also not taxable in your hands.

2

Loss utilization

Under the current limited liability company scenario, any loss incurred by the Company can be carried forward to future years and offset against any future assessable profits of the Company. This is valid even if the Company is engaged in another type of business which earns profits. However, the loss can only be carried forward in the name of the company and cannot be used by you. **2**

Under the sole-proprietorship business, any loss incurred by the business can be carried forward to future years and offset against any future assessable profits, but only from that same business carried on by the sole proprietor. If there is more than one business being carried on by you, the loss of one business cannot be offset against the profits from another business, unless 'personal assessment' is elected, as explained below. **1**

Property income and mortgage interest

Currently, the property owned by the Company is let out for rental. Under ss.2 and 14, the Company is subject to profits tax in respect of the income earned from 'letting or sub-letting' of the property. Expenses incurred in the production of assessable profits would be deductible against assessable profits under s.16(1), including depreciation, property management fees, rates and bank mortgage interest provided that s.16(2) is satisfied. **1**

Although the Company is by law also subject to property tax under s.5 in respect of the rental income received, the Company is eligible under s.5(2)(a) to apply for exemption from property tax on the basis that rentals from the property are part of the profits of the Company subject to profits tax. **1**

As the property is now owned by you, only s.5 applies, but not s.14. You will be subject to property tax at the rate of 15% on the net assessable value, based on the total rentals receivable less eligible deductions which are restricted to rates paid only by you and 20% of the total rentals as reduced by rates. No other deductions including bank mortgage interest and management fees would be allowed, unless personal assessment is elected. **1**

<u>Personal assessment</u> **2**

Personal assessment allows an individual taxpayer to be assessed on his or her total income from different sources including salary, business income (for unincorporated business only) and property income. Profit/loss from the Company is not eligible for transfer to personal assessment. After the change, it would be more beneficial for you to elect for personal assessment so that the loss from the sole proprietorship business will be aggregated with the rental income and more importantly, the bank mortgage interest (limited to the amount of the net assessable value of the property) can be deducted against the total aggregated income. As a result, the overall tax liability may be reduced.

Other items – **2**

Personal allowances – these are available under salaries tax and personal assessment but not property tax or profits tax. Taxpayer is entitled to claim married allowance. For self-education expenses, under **s.12(1)(e) and s. 12(6),** the maximum amount allowable is $80,000 (2014/15) as specified in Schedule 3A of the IRO. The expenses include tuition and examination fees paid and not deducted/ reimbursed to taxpayer, in connection with a prescribed course of education undertaken by the taxpayer; or fees in respect of an examination set by education provider, or by a trade, professional or business association for its members, and undertaken by the taxpayer to gain or maintain qualifications for use in any employment. Applying to the case, the amount paid is deductible.

<u>Stamp duty</u> **5**

The following points should be covered:

- Transfer property from limited company to individual: Stamp duty is charged under Head 1(1) for non-residential property or Head 1(1A) for residential property. Respective instrument for stamping is conveyance on sale or agreement for sale. The transfer will trigger stamp duty based on the market value of the property.
- However, if the property is transferred to you upon liquidation of the Company as a distribution *in specie*, it is exempt from stamp duty (s. 27(5) re no change of beneficial interest). This provision applies when the company is liquidated in specie so as to distribute back the 100% beneficial interest in the property back to the individual taxpayer.
- Special stamp duty may also be imposed in case of residential property under Head 1(1AA) if the property was purchased on or after 20 Nov 2010 and disposed of within 24 months; or purchased on or after 27 October 2012 and resold within 3 years.
- Exemption is however available for no change of beneficial interest in the property conveyed or transferred under section 27(5) of the SDO.

(max. 18)

End of Answers