



Hong Kong General Chamber of Commerce  
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*Helping Business since 1861*

8 June 2020

The Honourable Paul Chan Mo-po, GBS, MH, JP  
Financial Secretary  
25/F, Central Government Offices  
2 Tim Mei Avenue, Tamar  
Hong Kong

Dear Financial Secretary

The Hong Kong General Chamber of Commerce is pleased to submit our recommendations on tax relief measures to provide further assistance to businesses that have been hard-hit by the effects of COVID-19.

Almost one third (31%) of businesses surveyed by the Chamber in May expressed worries that they would only be able to survive for up to six months due to the unprecedented economic damage that the pandemic has wrought. While 16% said they could survive for up to six months, another 12% said they could only last for no more than four months.

As businesses struggle to cope under these extraordinary circumstances, government assistance could not be more important. While we welcome the two rounds of anti-epidemic relief measures rolled out by the Government, in addition to those in your recent Budget, we believe more could be done in the area of taxation policy.

To that end, we are pleased to submit our suggestions on a range of tax relief measures to help businesses stay afloat during this difficult time.

Yours sincerely

George Leung  
CEO

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**Submission by the Hong Kong General Chamber of Commerce on Tax Relief  
Measures in Response to COVID-19**

Since the beginning of 2020, the Government has launched a series of support measures to help businesses stay afloat amid the COVID-19 pandemic. The Hong Kong General Chamber of Commerce welcomes such efforts but believes that more could be done to assist businesses during these difficult times. The following sets out our proposals on tax relief measures to provide further assistance to businesses as they struggle to cope under these extraordinary circumstances.

**Provisional Profits Tax**

1. We suggest that a partial or complete waiver of provisional profits tax (PPT) for the assessment year of 2020/21 be introduced to alleviate cashflow difficulties faced by businesses.
  
2. Waiving the charge to 2020/21 provisional tax is a direct and effective means to providing meaningful relief. It has been suggested that taxpayers can apply for holdover of the 2020/21 PPT if the provisional taxable profit for that year is less than 90% of that assessed for 2019/20. However, under the current holdover mechanism, the amount of PPT that can be held over is limited to the net provisional tax payable i.e. after setting off the provisional tax paid under an earlier tax assessment. Given the dire economic conditions in 2019, it is anticipated that the provisional tax paid for 2019/20 (charged under the 2018/19 tax assessment) will be higher than the actual 2019/20 assessable profits. Under the current mechanism, the excessive provisional tax paid for 2019/20 will be applied against the 2020/21 provisional tax thereby reducing the 2020/21 provisional tax payable. As such, even if a taxpayer were to apply for a holdover of the 2020/21 provisional tax on the basis that the provisional profits for that year has dropped by 80% compared to 2019/20, it can only hold over the balance of the 2020/21 PPT that is not being set off by the provisional tax previously paid. Refund of that overpaid provisional tax will only be considered when the taxpayer eventually files the final tax return for 2020/21 in year 2021. Given all of the above, waiving the PPT is more direct and effective relief measure than the holding over of PPT in addressing liquidity challenges that taxpayers face.
  
3. A waiver also has the advantage of involving less bureaucracy relative to applying for a holdover. That said, the processing of PPT holdover should be simplified, at least for the 2020/21 assessment period, to enable the fast-tracking of taxpayers'

applications.

4. A partial or complete waiver of PPT should not require legislative changes as the imposition of PPT is made only “by reference to” the assessable profits of the preceding year.
5. In the case of a partial waiver, a threshold could be introduced although it is suggested that a higher ceiling be allocated to industries, such as the hotel and aviation sectors, that have been impacted the most by COVID-19.
6. We also suggest expediting refunds for overpaid PPT for the 2019/20 assessment period to ease cashflow pressure on businesses.

#### **Tax Payment**

7. We suggest that serious consideration be given to extending the deadline for the payment of profits tax for the 2019/20 assessment period by three months.
8. We also suggest that the number of instalments be increased over the proposed extended period to provide meaningful relief.

#### **Penalties for Tax Audit/Investigation Cases**

9. We believe that penalties including chargeable interest arising from tax audits and investigation cases should be waived on the grounds that IRD services had been suspended due to health and safety considerations

#### **Loss Carry Back and Group Loss Relief**

10. We continue to call for the introduction of loss carry back and group loss relief for profits tax purposes and believe that these are timely measures when businesses in general are suffering from losses as a result of the effects of COVID-19.
11. We suggest that companies be allowed to claim loss carry back subject to a cap of between HK\$2 million and HK\$3 million in losses for the 2019/20 and/or 2020/21 period(s). They should be allowed to carry back losses for the said period(s) for not more than 2 years. Such an arrangement can be limited to SME businesses as defined by the Government.

#### **Donation of Healthcare Supplies**

12. We suggest that companies be allowed to claim full tax deduction for the donation

of personal protective equipment and medical supplies to organisations, whether or not they fall under the meaning of Section 88 of the Inland Revenue Ordinance, in or outside of Hong Kong. There should be no cap on tax deductions for such donations.

13. The proposed deduction should be valid only for the 2019/20 and/or 2020/21 assessment period(s) to align with the period of the outbreak and eligible to all donor companies including those in a tax loss position.
14. Proof of donations could be established through such means as corporate public relations campaigns or acknowledgement/certification by recipient organisations. The framework for determining the value of such donations (in lieu of cash) should be developed by the tax authorities or Tax Policy Unit.

#### **Tax Residence/Permanent Establishment Status**

15. The rapid global shutdown of travel and imposition of lockdowns and other restrictions to prevent the spread of COVID-19 have stranded travellers often when they have no intention of staying indefinitely. This has given rise to questions on a company's tax residence and permanent establishment status of which the former is contingent on company directors' ability to fulfil fiduciary obligations, namely, physical attendance at board meetings, while the latter could arise due to foreigners' unplanned presence in Hong Kong.
16. We urge the Government to issue a guidance note<sup>1</sup> as soon as possible to provide certainty and relief to those potentially exposed to changes in their tax status as a result of travel disruptions caused by the pandemic.

HKGCC Secretariat  
June 2020

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<sup>1</sup> [Singapore's IRAS](#), [UK's HMRC](#), [Australia's ATO](#) and the [OECD](#) have since published relevant guidance under such exceptional circumstances.