

NOTES AND INSTRUCTIONS FOR FORMS B.I.R.56A AND I.R.56B

Form B.I.R.56A

1. Declaration

- (a) A I.R.56B should be completed and filed for each of the following *persons* :-
- (i) Employees (including labourers, workers etc. whether daily paid or otherwise, and employees who have received remuneration through service company arrangements), whether resident in Hong Kong or not, whose total income (See Note 3 below) for the year from 1 April 2005 to 31 March 2006 amounted to **\$100,000** or over (if employed for less than a year, a proportionately reduced amount).
 - (ii) Directors, married persons and part-time employees who are likely to have other income chargeable to Salaries Tax, irrespective of any amount paid and whether resident in Hong Kong or not.
 - (iii) Employees of any overseas company who were assigned or seconded to your company during the year from 1 April 2005 to 31 March 2006 for duties in or outside Hong Kong.
 - (iv) Persons to whom a pension was paid or accrued during the year from 1 April 2005 to 31 March 2006. In the case of those pensioners who have left Hong Kong permanently, only pensions in excess of **\$100,000** need to be reported.
 - (v) Former employees and former directors who, during the year from 1 April 2005 to 31 March 2006, have realized gain by the exercise, assignment or release of any share option previously granted by the employer or by any other corporation in respect of their former employment with or office in the employer. In the case of those former employees or former directors who did not have any other income chargeable to Salaries Tax during the year, only the gains realized in excess of **\$100,000** need to be reported (See also Note 9(b) below).
- (b) Please enter the number of sheets of I.R.56B forms you have attached in item (1) and / or item (2) of the Declaration panel on B.I.R.56A. If there are no such persons as described in Note 1(a) above, please state "NIL" in Item (1) of the Declaration panel and cross out Item (2).
- (c) If you choose to submit I.R.56B in paper form, you must use the printed form I.R.56B for the relevant year provided by the Inland Revenue Department. Photocopies of the form are not acceptable.
- (d) **Control List**
This refers to the control list generated by the "IRD Software" provided by the Inland Revenue Department to employers, or software developed by your company and approved by the Department. The control list must be signed by the same responsible person referred to in Note 1(e) below.
- (e) The Declaration on the B.I.R.56A and all I.R.56B forms submitted with the B.I.R.56A must be signed by the Proprietor for a sole-proprietorship, Precedent Partner for a partnership, Secretary / Manager / Director / Liquidator for a corporation or Principal Officer for a body of persons.

Form I.R.56B

2. General Matters

- (a) I.R.56B forms should be submitted in *alphabetical order of surname and then other names*.
- (b) *Sheet No. should be marked on each and every I.R.56B in numerical order starting from "1" corresponding to the alphabetical sequence. Only ONE set of numbering sequence should be used.*
- (c) H.K. Identity Card No. at Item 3(a) should be completed as follows :-

An employee of I.C. No. C626525(A)

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- (d) Please provide a copy of the submitted I.R.56B form to each of the persons referred to in Note 1(a) above to facilitate the preparation of his / her individual tax return. You should retain copies of the submitted I.R.56B forms for reference.

3. Income to be reported

- (a) Income chargeable to Salaries Tax (including remuneration paid to an employee under certain service company arrangements) is that which, in the hands of the recipient, is income arising in or derived from Hong Kong. Income arising in or derived from Hong Kong includes, in addition to its ordinary meaning, income derived from services rendered in Hong Kong. In respect of employees assigned or seconded to you, please complete item 13. *You should also include the whole of the income paid by the overseas company* in item 11.
- (b) The *gross income* before any deductions rather than the net sum should be reported. For example, recoupment from employees in respect of expenses paid by you on their behalf; portions of income considered attributable to services rendered outside Hong Kong, etc. should be included in the gross income.
- (c) **Contributions to Recognized Retirement Schemes by employer and employee**
Report the GROSS income before deduction of contributions to recognized retirement schemes by employee at item 11(a). Mandatory and voluntary contributions by employer should NOT be reported. For example :-
- (i) Monthly salary of employee = \$20,000
 - (ii) Employer's and employee's respective monthly contribution to a recognized retirement scheme = \$20,000 x 5% = \$1,000
 - (iii) The net monthly sum received by employee = \$20,000 - \$1,000 = **\$19,000**
 - (iv) The amount to be reported at item 11(a) = \$20,000 x 12 months = **\$240,000**
 - (v) Employer's contributions of \$12,000 should NOT be reported at item 11.
- (d) Income received by owners and / or their spouses from their unincorporated businesses (such as sole proprietorship or partnership businesses) is not chargeable to Salaries Tax and thus should NOT be reported on the I.R.56B.

4. Item 11(d) Commission / Fees

The commission and fees to be reported are the amounts, the payment of which the employee or former employee became entitled to claim during the year from 1 April 2005 to 31 March 2006.

5. Item 11(e) Bonus

If the employee is entitled to claim payment of a bonus in respect of the year from 1 April 2005 to 31 March 2006 under the terms of employment, the amount of bonus must be reported irrespective of when it was paid. In all other circumstances the amount of bonus actually paid to the employee during the year from 1 April 2005 to 31 March 2006 must be reported.

6. Item 11(f) Back pay, terminal awards, and gratuities etc.

- (a) The amount to be reported here is a lump sum payment or gratuity which is made or paid during the year from 1 April 2005 to 31 March 2006 and is :-
- (i) paid upon retirement or termination of any office or employment or any contract of employment; or
 - (ii) deferred pay or arrears of pay resulting from a salaries or wages award.
- (b) However, payments made in lieu of notice, severance payment or long service payment made in accordance with the Employment Ordinance should not be included. For example :-
- (i) Monthly salary of employee = \$12,000
 - (ii) No. of years of service = 8
 - (iii) Amount of severance payment actually made by employer = \$96,000
 - (iv) *The excess amount made to be reported at item 11(f)*
= \$96,000 - \$64,000
= **\$32,000**

Amount of severance payment required to be made under the Employment Ordinance = \$12,000 x 2/3 x 8 = \$64,000

(Note: If you cease to employ an employee during the year, you should complete and return I.R.56F for the employee not later than 1 month before the date of cessation. You should not complete I.R.56B.)

7. Item 11(g) Certain Payments from Retirement Schemes

(a) Occupational Retirement Scheme

The following payments from occupational retirement scheme should be reported :-

- (i) unrecognized scheme : so much of any amount received as represents the employer's contributions;
- (ii) recognized scheme [ORSO scheme]: so much of any amount received by reason other than termination of service, death, incapacity or retirement as represents the employer's contributions or in case of termination of service, so much of any excess of the amount received over the proportionate benefit as defined in section 8(4) and (5) of the Inland Revenue Ordinance as represents the employer's contributions.
- (iii) any payment received pursuant to a judgment given under section 57(3)(b) of the Occupational Retirement Schemes Ordinance that is attributable to the employer's contributions. The aforesaid payment is awarded by the court in respect of the shortfall between the employee's vested benefits and the amount received by him / her upon the winding up of the scheme.

(b) Mandatory Provident Fund Scheme (MPF Scheme)

The following payments from MPF Scheme should be reported :-

- (i) so much of any amount received by reason other than termination of service, death, incapacity or retirement as represents the employer's *voluntary* contributions; or
- (ii) in case of termination of service, so much of any excess of the amount received or taken to have received [#] over the proportionate benefit as defined in section 8(4) and (5) of the Inland Revenue Ordinance as represents the employer's *voluntary* contributions.

[#] Upon termination of service, if the employee chooses to retain his accrued benefits as represents the employer's *voluntary* contribution within the MPF Scheme or transfer them to another MPF Scheme, section 8(9) of the Inland Revenue Ordinance deems the employee to have received the accrued benefits at the date of termination of service. Accordingly the proportionate benefit rule needs to be considered and the excess amount should be reported.

(c) Proportionate Benefit Rule

- (i) The proportionate benefit rule is used to determine the amount to be reported where an employee terminates employment and receives (or is taken to have received) benefits from an ORSO Scheme or a MPF Scheme. The rule provides that if an employee has worked for less than 10 years for an employer, the amount received under the scheme, upon termination of service, in respect of the employer's *voluntary* contributions is exempt to the following extent :-

$$\text{Accrued benefit under the scheme}^* \times \frac{\text{completed month of service}}{120}$$

* For a MPF Scheme, the accrued benefit is equal to the employer's *voluntary* contributions.

For example, where :-

the accrued benefit received under an ORSO Scheme or a MPF Scheme is \$100,000

the number of complete months of service is 72

The proportionate benefit would be -

$$\$100,000 \times 72/120 = \$60,000$$

Accordingly, the amount to be reported at item 11(g) would be -

$$\begin{aligned} \text{Amount received} - \text{Proportionate Benefit} \\ = \$100,000 - \$60,000 = \$40,000 \end{aligned}$$

- (ii) In relation to the proportionate benefit rule, it is the length of service with the employer and not the length of scheme membership that is taken into account in the calculation of the benefit.

8. Item 11(i) Education Benefits

Education benefits are any amount paid by an employer in connection with the education of a child of any employee.

9. Item 11(j) Gain realized under share option scheme

- (a) If, during the year from 1 April 2005 to 31 March 2006, an employee or a director **exercised, assigned or released** any share option granted by the employer or by any other corporation in respect of his / her employment with or office in the employer, any resulting gain calculated in accordance with section 9(4) of the Inland Revenue Ordinance ("share option gain") should be reported here.
- (b) Any share option gain realized by a **former employee or a former director** during the year from 1 April 2005 to 31 March 2006 should also be reported here. If there was only one exercise, assignment or release transaction, the date of transaction should be shown as both the start date and the end date at item 10. If there were more than one transaction, the date of the first transaction should be shown as the start date and the date of the last transaction should be shown as the end date at item 10. A list should be provided, containing the following information in respect of each such former employee or former director :-
 - (i) name and HKIC no. or passport no.; and
 - (ii) the form I.R.56B sheet number.
- (c) If an employee or a director was **granted** a share option by the employer or by any other corporation in respect of his / her employment with or office in the employer during the year from 1 April 2005 to 31 March 2006, a list should be provided, containing the following information in respect of each such employee or director :-
 - (i) name and HKIC no. or passport no.;
 - (ii) name of the corporation in respect of which the option was granted; and
 - (iii) the number of shares subject to the option.

10. Item 11(k) Any other Rewards, Allowances or Perquisites

The amount to be reported here should include any :-

- (a) perquisite in cash or of such a nature that either they may be converted into cash or are money's worth. Examples are gift of motor car, award of shares, etc.
- (b) cash allowances for food, travelling, servants, housing, cost of living, etc.
- (c) "Dim Yung" commission.
- (d) payment or reimbursement by the employer of personal expenses contracted and incurred by the employee.
- (e) tips, including sums known by the employer to have been received by the employee from other persons.
- (f) amount paid by the employer for holiday journey benefits.

11. Item 11(l) Pensions

Only pensions paid by the employer should be included here.

12. Item 12 Place of Residence provided

- (a) In respect of any place of residence provided including places where all or part of the rent paid by employees has been refunded, details must be shown whether provided by you or an associated corporation. For the purposes of this note the term "associated corporation" means a corporation over which the employer has control or if the employer is a corporation, a corporation which has control over the employer or a corporation which is under the control of the same person as is the employer. Control means the power of a person, either by the means of a holding of shares or by means of powers granted, to conduct the affairs of the corporation in accordance with his / her wishes.
- (b) Where two or more employees shared the place of residence provided, please include a note to that effect at item 14.

13. Item 13 Payment by an overseas company

The amount to be reported is the gross amount paid by the overseas company. However, this sum **MUST** also be included at item 11 (See Note 3(a) above).

14. Further information

If you need further information or assistance, you may :-

- (a) visit the Department's web site at www.ird.gov.hk and get the related information under "Tax Information - Businesses Employers"
- (b) obtain specimens of completed Employer's returns and notifications through the 'Fax-A-Form' Service (2598 6001)
- (c) write or fax (2877 1232) to the Assessor, quoting your file number and day-time contact telephone number
- (d) telephone 187 8088
- (e) call at the Enquiry Service Centre at 1/F of the Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong