

A BILL

To

Amend the Inland Revenue Ordinance to give effect to certain proposals in the Budget introduced by the Government for the 2024–2025 financial year concerning the introduction of a tax deduction for reinstatement costs for premises under a lease and the removal of the time limit for claiming annual allowances for commercial and industrial buildings and structures; and to provide for related matters.

Enacted by the Legislative Council.

Part 1

Preliminary

1. Short title

This Ordinance may be cited as the Inland Revenue (Amendment) (Tax Deductions for Leased Premises Reinstatement and Allowances for Buildings and Structures) Ordinance 2024.

Inland Revenue (Amendment) (Tax Deductions for Leased Premises Reinstatement
and Allowances for Buildings and Structures) Bill 2024

Part 1

Clause 2

C2109

2. Inland Revenue Ordinance amended

The Inland Revenue Ordinance (Cap. 112) is amended as set out in Parts 2 and 3.

Part 2

Tax Deductions for Leased Premises Reinstatement

3. Section 16 amended (ascertainment of chargeable profits)

(1) After section 16(1)(gb)—

Add

“(gc) despite section 17, reinstatement costs incurred for any premises under a lease, but only if all of the conditions specified in subsection (2K) are met;”.

(2) After section 16(2J)—

Add

“(2K) The following conditions are specified for the purposes of subsection (1)(gc)—

- (a) the person claiming the deduction is a lessee of the lease;
- (b) the person has a reinstatement obligation for the premises;
- (c) the reinstatement costs do not relate to any provisions made under—
 - (i) Hong Kong Financial Reporting Standard 16 (Leases) as issued by the Hong Kong Institute of Certified Public Accountants and in force from time to time; or
 - (ii) any other similar accounting standards;
- (d) the amount of the reinstatement costs is reasonable in the circumstances.”.

(3) Section 16(3), Chinese text, definition of 親屬—

Repeal

“女。”

Substitute

“女；”。

(4) Section 16(3)—

Add in alphabetical order

“*original condition* (原來狀況), in relation to any premises under a lease, means the condition the premises are in at the beginning of the term of the lease;

reinstatement costs (還原費), in relation to any premises under a lease—

- (a) means the costs of reinstating the premises to their original condition at the end of the term of the lease or on an early termination of the lease; and
- (b) includes any amount paid or payable by a lessee of the lease to the lessor of the lease in order to discharge the lessee’s reinstatement obligation for the premises;

reinstatement obligation (還原責任), in relation to any premises under a lease, means an obligation (whether express or implied, and whether arising from the lease or from another agreement between the lessor and lessee of the lease) to reinstate, or pay (whether in full or in part) for the reinstatement of, the premises to their original condition at the end of the term of the lease or on an early termination of the lease;”。

(5) After section 16(5C)—

Add

“(5D) The amendments made to this section by the Inland Revenue (Amendment) (Tax Deductions for Leased Premises Reinstatement and Allowances for Buildings and Structures) Ordinance 2024 (of 2024) apply only in relation to a year of assessment beginning on or after 1 April 2024.”.

Part 3

Allowances for Buildings and Structures

4. **Section 33A amended (annual allowances, commercial buildings and structures)**
- (1) Section 33A(1)—
- Repeal**
“subsection (2),”
- Substitute**
“subsections (2) and (2A),”.
- (2) Section 33A(1), English text—
- Repeal**
“shall”
- Substitute**
“is to”.
- (3) Section 33A(2)—
- Repeal**
“a building or structure, which is the relevant interest in relation to any expenditure, is sold”
- Substitute**
“the building or structure mentioned in subsection (1) is sold to the person mentioned in that subsection in the basis period for a year of assessment before the year of assessment beginning on 1 April 2024 (*pre-2024 basis period*)”.
- (4) Section 33A(2), English text—
- Repeal**

“shall” (wherever appearing)

Substitute

“is to”.

- (5) Section 33A(2)—

Repeal

“sales.”

Substitute

“sale that takes place in a pre-2024 basis period.”.

- (6) After section 33A(2)—

Add

“(2A) If—

- (a) the interest in the building or structure mentioned in subsection (1) is sold to the person mentioned in that subsection in the basis period for a year of assessment beginning on or after 1 April 2024; and
- (b) the building or structure has been used at any time before the sale, whether as a commercial building or structure or otherwise,

then the annual allowance, in any year of assessment the basis period for which ends after the time of the sale, is to be an amount equal to 4% of the residue of expenditure immediately after the sale, and so on for any subsequent sale.”.

5. Section 34 amended (initial and annual allowances, industrial buildings and structures)

- (1) Section 34(2)(a)—

Repeal

“paragraph (b),”

Substitute

“paragraphs (b), (ba) and (bb),”.

- (2) Section 34(2)(a), English text—

Repeal

“shall”

Substitute

“is to”.

- (3) Section 34(2)(b)—

Repeal

“a building or structure, which is the relevant interest in relation to any expenditure, is sold”

Substitute

“the building or structure mentioned in paragraph (a) is sold to the person mentioned in that paragraph in the basis period for a year of assessment before the year of assessment beginning on 1 April 2024 (*pre-2024 basis period*)”.

- (4) Section 34(2)(b), English text—

Repeal

“shall” (wherever appearing)

Substitute

“is to”.

- (5) Section 34(2)(b)—

Repeal

“1965, and”

Substitute

“1965 (*1965 basis period*), and”.

- (6) Section 34(2)(b)—

Repeal

“such basis period, and”

Substitute

“the 1965 basis period, and”.

- (7) Section 34(2)(b)(ii)—

Repeal

everything after “with the”

Substitute

“capped year, and so on for any subsequent sale that takes place in a pre-2024 basis period.”.

- (8) After section 34(2)(b)—

Add

“(ba) If—

- (i) the interest in the building or structure mentioned in paragraph (a) is sold to the person mentioned in that paragraph in the basis period for a year of assessment (*sale year*)—
 - (A) after the capped year; and
 - (B) before the year of assessment beginning on 1 April 2024 (*2024/25 year*);
- (ii) the building or structure has been used at any time before the sale, whether as an industrial building or structure or otherwise; and
- (iii) the residue of expenditure immediately after the sale is not 0, but no allowance has ever been made under paragraph (a) (as modified by paragraph (b)) for the sale year and all subsequent years of assessment up to and

including the year of assessment beginning on 1 April 2023 because at the time of the sale—

- (A) where the building or structure was first used before the commencement of the 1965 basis period—50 or more years of assessment have passed after the year of assessment in which the building or structure was first used; or
- (B) where the building or structure was first used on or after the commencement of the 1965 basis period—25 or more years of assessment have passed after the year of assessment in which the building or structure was first used,

then despite paragraph (b), the annual allowance, in the 2024/25 year and any year of assessment after that, is to be an amount equal to 4% of the residue of expenditure.

(bb) If—

- (i) the interest in the building or structure mentioned in paragraph (a) is sold to the person mentioned in that paragraph in the basis period for a year of assessment beginning on or after 1 April 2024; and
- (ii) the building or structure has been used at any time before the sale, whether as an industrial building or structure or otherwise,

then the annual allowance, in any year of assessment the basis period for which ends after the time of the sale, is to be an amount equal to 4% of the residue of expenditure immediately after the sale, and so on for any subsequent sale.”.

(9) After section 34(2)—

Add

“(3) In this section—

capped year (上限年度), in relation to a building or structure, means—

- (a) if the building or structure was first used before the commencement of the 1965 basis period—the 50th year of assessment after the year of assessment in which the building or structure was first used; or
 - (b) if the building or structure was first used on or after the commencement of the 1965 basis period—the 25th year of assessment after the year of assessment in which the building or structure was first used.”.
-

Explanatory Memorandum

The purpose of this Bill is to amend the Inland Revenue Ordinance (Cap. 112) (*principal Ordinance*)—

- (a) to give effect to certain proposals in the Budget introduced by the Government for the 2024–2025 financial year concerning—
 - (i) the introduction of a tax deduction for reinstatement costs for premises under a lease; and
 - (ii) the removal of the time limit for claiming annual allowances for commercial and industrial buildings and structures; and
 - (b) to provide for related matters.
2. Clause 1 sets out the short title.
 3. Clause 3 amends section 16 of the principal Ordinance to allow the costs of reinstating any premises under a lease to their original condition at the end of the term of the lease or on an early termination of the lease (including any amount paid or payable by a lessee of the lease to the lessor of the lease in order to discharge the lessee’s obligation for reinstatement) to be deducted from the lessee’s chargeable profits if certain conditions are met.
 4. Clause 4 amends section 33A of the principal Ordinance to remove the time limit for claiming annual allowances for the depreciation by wear and tear of commercial buildings and structures.

Inland Revenue (Amendment) (Tax Deductions for Leased Premises Reinstatement and Allowances for Buildings and Structures) Bill 2024

Explanatory Memorandum

Paragraph 5

C2131

5. Clause 5 amends section 34 of the principal Ordinance to remove the time limit for claiming annual allowances for the depreciation by wear and tear of industrial buildings and structures. Since the time limit in respect of certain industrial buildings and structures has expired before the year of assessment beginning on 1 April 2024 (*2024/25 year*), the amended section 34 also provides for these buildings and structures by allowing allowances to be made in respect of them for the 2024/25 year and the years of assessment after that.