

LCQ2: Child allowance

Following is a question by the Hon Nixie Lam and a reply by the Acting Secretary for Financial Services and the Treasury, Mr Joseph Chan, in the Legislative Council today (June 18):

Question:

Under the Inland Revenue Ordinance, all eligible child allowances for married couples residing together can only be claimed by one of them, and they must decide on their own who should make the claims. There are views that such arrangement may give rise to disputes within the family. In this connection, will the Government inform this Council:

(1) given that modern married couples usually share the responsibility of taking care of their children (both financially and in terms of care), of the reasons why child allowances can only be claimed by one of them at present;

(2) whether it has studied amending the legislation to stipulate that married couples with children may allocate child allowances equally or claim child allowances separately; if so, of the specific plan and timetable, including whether it will consider introducing a default allocation mechanism (such as allowing a choice of equal allocation of allowances or automatic allocation of allowances according to the ratio of the married couples' incomes, empowering the Inland Revenue Department to make rulings or setting clear criteria on the priority of making claims); if it has not studied amending the legislation, of the reasons for that; and

(3) whether, in the absence of legislative amendments at present, the Government will consider drawing up a set of reference guidelines on child allowances, e.g. the order of claims may be handled according to the ratio of family incomes, major child-rearing roles or previous claiming practices, etc, as well as stepping up public education, so as to assist families in making proper arrangements for claiming allowances; if so, of the specific plan and timetable; if not, the reasons for that?

Reply:

President,

According to Section 31 of the Inland Revenue Ordinance (Cap. 112) (Ordinance), a taxpayer for salaries tax may claim child allowance for a year of assessment if he/she maintains an unmarried child who is under 18 years old; of or over 18 but under 25 years old and receiving full time education at an educational institution; or of or over 18 years old and is, because of physical or mental disability, unable to work in that year of assessment. A taxpayer may claim child allowance for up to nine children. Starting from the year of assessment 2023/24, the allowance for each child is \$130,000. An additional allowance of \$130,000 is granted for a newborn child during the

year of assessment of the child's birth.

My reply to parts 1-3 of the Hon Nixie Lam's question is as follows:

(1) and (2) According to Section 31(3) of the Ordinance, unless a taxpayer and his/her spouse are living apart, all child allowances must be claimed en bloc by either the taxpayer or his/her spouse. Taxpayers and their spouse should jointly decide who will claim all the child allowances. This requirement was included in the Ordinance in 1989, when married persons started to be allowed to elect separate taxation or joint assessment with their spouse, and has been in force until today. The main considerations are as follows:

Before the year of assessment 2003/04, the amount of child allowance was determined by the number of children claimed on a regressive basis. Starting from the year of assessment 2003/04, the 1st to the 9th child are granted with a uniform allowance. Nevertheless, the prevailing mechanism already provides sufficient options and flexibility to reduce the tax burden on married persons, and more than 60 per cent of taxpayers claiming child allowances claim for only one child. We therefore consider that there is no need to abolish the requirement that only a taxpayer or his/her spouse can claim child allowance. Currently, married persons may elect separate taxation or joint assessment with their spouse for tax savings. Having all child allowances claimed by one party or allowing both parties to separately claim allowances for individual child or children does not affect the total amount of tax payable under joint assessment. Under the current arrangement, even if married persons and their spouse do not elect joint assessment on their own initiative, the Inland Revenue Department (IRD) would still compare their tax payable under separate taxation and joint assessment. If joint assessment is found to be more beneficial to them, the IRD would invite them to elect joint assessment. In addition, the Ordinance does not require that the allowance in respect of the same child must always be claimed by the same claimant. If taxpayers and their spouse choose separate taxation, they may discuss in advance on how to claim the child allowance and flexibly arrange to claim the child allowance for different years of assessment, such as taking turns to claim in different years, to meet the needs of individual families.

We find the current mechanism effective in reducing the tax burden on married persons and providing taxpayers with a flexible and convenient tax filing process, allowing them to make appropriate tax arrangements according to their family situations. There is no need to allow taxpayers and their spouse to separately claim child allowances. Currently, the IRD only apportions the child allowance based on actual circumstances for living apart or divorced cases. This arrangement helps reduce the compliance burden on taxpayers and ensure the IRD's efficiency of tax assessment.

On the other hand, as the specific circumstances and needs of each family vary, taxpayers and their spouse may have different financial and tax arrangements. We have no plans to change the current practice of the IRD generally not intervening in family matters to introduce a default allocation mechanism, as it is unlikely to meet the needs of all families.

The Government will continue to review the claim arrangements and levels of various allowances from time to time, and consider whether there is room for enhancement based on various factors such as the number of beneficiaries, the Government's financial situation, and administrative efficiency.

(3) The IRD currently provides frequently asked questions and guidelines on child allowances on its website. Generally speaking, it is more beneficial for the party with higher income to claim child allowance. However, if one party is assessed at standard rates, it would be more beneficial for the other party who is not assessed at standard rates to claim the allowance. The website also features a tax calculator, allowing taxpayers and their spouses to input their respective income amounts, deductions, and different allowance distribution scenarios to make the most appropriate claim arrangements. Besides, after issuing individual tax returns in May of each year, the IRD will extend the service hours of telephone enquiry to answer questions from taxpayers about completing their tax returns.

Thank you, Mr President.