
2G. Inland Revenue Ordinance

According to the Inland Revenue Ordinance (IRO), an individual will be charged salaries tax on their income arising in or derived from Hong Kong from any employment, office, and pension. Under the IRO, employers are required to keep payroll records of their employee and report remuneration paid to an employee within designated time.

2G.1 Keeping payroll records

Employers have to maintain payroll records of their employees and keep these records for at least 7 years.

On hiring, employers have to maintain a record of all employees':

- ✦ personal particulars (eg. name, address, identity card number, marital status)
- ✦ nature of employment (eg. full-time or part-time)
- ✦ capacity in which employed (eg. shop manager, clerk, director)
- ✦ amount of cash remuneration (including remuneration paid overseas)
- ✦ non-cash and fringe benefits (eg. share award, share option, quarters)
- ✦ employer's contributions to the Mandatory Provident Fund (MPF) or its equivalent
- ✦ employee's contributions to the Mandatory Provident Fund (MPF) or its equivalent
- ✦ employment contract and amendments to terms of employment
- ✦ period of employment

Employees should inform their employers about any changes of personal particulars such as change of address, marital status etc.

During the course of employment, employers have to inform the Inland Revenue Department (IRD) if any of the following happens:

- ✦ change in the employee's personal particulars
- ✦ change in the employee's terms of employment
- ✦ issuance of Hong Kong ID Card to employees who do not have an HKID Card at the time of employment

For more information on employers' obligations to keep payroll records under the Income Revenue Ordinance, please visit the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > What you need to know as an employer > Employer's Obligations > Keeping payroll records http://www.ird.gov.hk/eng/tax/ere_obl.htm#a01

2G.2 Reporting to IRD remuneration paid to employees

For the purpose of salary tax assessment, employers need to report to IRD the remuneration paid to employees, within one month, by submitting annual Employer's Return (BIR56A and IR56B).

a. Continuous employment

An employer is required to report employees' remuneration on the Employer's Return (BIR56A and IR56B).

b. New employment

An employer is required to furnish in writing to IRD (IR56E), within 3 months of employing a new employee, with particulars of such employee, for the purpose of salary tax assessment.

c. Termination of service (or death)

An employer who is about to cease employing an employee must notify the IRD (IR56F), in writing, within 1 month of the employment end date or upon the death of an employee.

d. Employee's leaving Hong Kong for good or for a substantial period of time

The employer of any individual intending to leave Hong Kong for good or for a substantial period of time is obliged to notify IRD, in writing (IR56G), at least 1 month before the expected date of departure. This does not apply to persons who are required to leave Hong Kong frequently in the course of their employment, business or profession. Therefore, employers should ascertain whether the employee leaving their employment intends to leave Hong Kong.

For employees intending to leave Hong Kong upon leaving their employment, the employer is required to withhold any payments of money to the employee for a period of one month from the date on which the notification was given, or until a "letter of release" is received from the IRD, whichever is earlier.

For details, refer to PAM 46(e) – *"You or your employee is going to leave Hong Kong (What are You Required to do under the Tax Law?)"* available from the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information - Individuals/Businesses > Employers > Employer's obligations > Reporting remuneration paid to an employee > IR56G (On his leaving Hong Kong for good or for a substantial period of time) > You or your employee is going to leave Hong Kong (What are you required to do under the tax law?)

<http://www.ird.gov.hk/eng/pdf/pam46e.pdf>

For more information on employers' obligations to report remuneration paid to an employee under the Income Revenue Ordinance, please visit the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > What you need to know as an employer > Employer's Obligations > Reporting remuneration paid to an employee http://www.ird.gov.hk/eng/tax/ere_obl.htm#a02

2G.3 Employee's income

Employees' income that attract salaries taxes are varied and could be quite extensive. They include salaries, wages, leave pay, director fees, commission, bonus, holiday journey benefits, etc.

The following types of income are chargeable to Salaries Tax and should be reported by the employer:

- ❖ Salaries, wages, leave pay, directors fee, commission, bonus (item 11(a) to (e) of IR56B)
- ❖ Payment in lieu of notice accrued on or after 1 April 2012 (item 13(d) of IR56F and item 11(d) of IR56G)
- ❖ Back pay, end-of contract/other gratuities, ex-gratia payments, terminal awards (item 11(f) of IR56B)
- ❖ Salaries Tax paid by employer (item 11(h) of IR56B)

- ✦ Education benefits (item 11(i) of IR56B)
- ✦ Gain realised under share option scheme (item 11(j) of IR56B)
- ✦ Tips paid by customers (item 11(k) of IR56B)
- ✦ Holiday Journey Benefits (item 11(k) of IR56B)
- ✦ Certain payments from Retirement Schemes (item 11(g) of IR56B)
- ✦ Pension (item 11(l) of IR56B)
- ✦ The provision of a place of residence to the employee (item 12 of IR56B)
- ✦ Income received by the employee from an overseas company, whether paid in Hong Kong or overseas (item 11 and item 13 of IR56B)

For more information on employers' obligations and responsibilities under the Income Revenue Ordinance, please visit the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > Know More About > Employee's Income <http://www.ird.gov.hk/eng/tax/ere.htm#a03>

2G.4 MPF and Recognized Occupational Retirement Schemes

Tax obligation under MPF Schemes and Recognized Occupational Retirement Schemes

- ✦ The employer's contributions to the MPF Scheme do not constitute income of the employee for tax purposes.
- ✦ Normally the employee receives their salaries net of their MPF contribution. Therefore, the income to be reported on form IR56 series should be "the gross monthly salary" and not "the net pay" after deduction of the employee's MPF contributions.
- ✦ Some employers voluntarily pay the employee's contributions to the MPF Scheme. The employees do not have to make any contributions and they receive salary without deduction. In this circumstance, the "employee's contribution" becomes additional remuneration and should be reported as income of the employee.
- ✦ Any taxable accrued benefits from the MPF scheme or Recognized Occupational Retirement Schemes, being "the amount in excess of the proportionate benefit" as represents the employer's contributions, must be reported on form IR56s.
- ✦ Generally speaking, only in the case of termination of employment where the employee's service is less than 10 years and the employer has made "voluntary contribution", the employer has to report the "accrued benefits" (i.e. taxable under Salaries Tax). Any contribution in excess of the mandatory requirement is called "voluntary contribution".

For more details about reporting of accrued benefits from MPF Scheme or Recognized Occupational Retirement Scheme, visit IRD's website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > Know More About > Employee's Income > MPF and Recognized Occupational Retirement Schemes.

Employer's Tax Obligation under MPF Schemes and Recognized Occupational Retirement Schemes http://www.ird.gov.hk/eng/pdf/esem_er_mpf.pdf

Deductibility of contributions for employees and self-employed persons - MPF scheme or Recognized Occupational Retirement Scheme <http://www.gov.hk/en/residents/taxes/salaries/allowances/deductions/mpf.htm>