

Inland Revenue Rules
(Cap. 112 sub. leg. A)

Contents

Rule		Page
1.	Citation	2
	Rates of Depreciation	
2.	Rates of depreciation	2
	Method of Ascertainment, for the Purposes of section 16 of the Ordinance, of the Extent to Which Outgoings and Expenses are Incurred in the Production of Profits in Respect of Which a Person is Chargeable to Tax under Part IV of the Ordinance	
2A.	General apportionment of outgoings and expenses	10
2B.	Interest on borrowed money used in purchase of shares	10
2C.	Investment portfolios	12
2D.	Rights of objection and appeal	14
	Method of Ascertainment and Determination of the Profits of the Hong Kong Branch of a Financial Institution Whose Head Office is Outside Hong Kong	

Rule		Page
3.	Financial institution: profits of Hong Kong branch offices	14
4.	<i>(Repealed)</i>	18
	Method of Ascertainment and Determination of the Profits of the Hong Kong Branch of a Person, Other Than a Financial Institution, Whose Head Office is Outside Hong Kong	
5.	Profits of Hong Kong branch offices of person other than financial institution	18
6.	<i>(Repealed)</i>	20
7.	Transitional provisions	20

Inland Revenue Rules

(Cap. 112, section 85)

[22 August 1947]

(*Format changes—E.R. 1 of 2017*)

1. Citation

These rules may be cited as the Inland Revenue Rules.

Rates of Depreciation

2. Rates of depreciation

- (1) For the purpose of the Ordinance, the expression ***machinery or plant*** (機械或工業裝置) shall include or be deemed to include the items specified in the second column of the First Part of the Table annexed to this rule but not the items specified in the second column of the Second Part of that Table which shall be deemed to be included in the expression ***any implement, utensil and article*** (任何工具、器具及物品) for the purposes of the Ordinance.
- (2) The rates of depreciation specified in the third column of the First Part of the Table annexed to this rule are hereby prescribed for the purpose of ascertaining the annual allowance to be made under sections 37(2), 37A(2) and 39B(3) of the Ordinance. (*L.N. 365 of 1980*)
- (3) Wharves shall not be or be deemed to be included in the expression ***plant or machinery*** (工業裝置或機械) but where a balancing allowance or a balancing charge falls to be made to or on any person under section 35 of the Ordinance in respect of any wharf, the allowances, if any,

granted in respect of such wharf under section 37 or 37A of the Ordinance for any year of assessment prior to the year of assessment commencing on 1 April 1965, shall be taken into account in calculating such balancing allowance or charge.

(L.N. 101 of 1965)

Table

First Part

Item	Rate of Depreciation
1. Air-conditioning plant excluding room air-conditioning units	10%
2. Bank safe deposit boxes, doors and grills	10%
3. Broadcasting transmitters	10%
4. Cables (electric)	10%
5. Lamp standards (street)—gas or electric	10%
6. Lifts and escalators (electric)	10%
7. Mains (gas or water)	10%
8. Oil tanks	10%
9. Shipping—	
Ships, junks and sampans	10%
Lighters	10%
Tugs	10%
10. Sprinklers	10%
11. Domestic appliances	20%

Item	Rate of Depreciation
12. Furniture (excluding soft furnishings)	20%
13. Room air-conditioning units	20%
14. Shipping—	
Launches and ferry vessels	20%
Hydrofoils	20%
15. Taxi meters	20%
16. Type and blocks (if not dealt with on renewals basis)	20%
17. Aircraft (including engines)	30%
18. Bar syphon apparatus	30%
19. Bicycles	30%
20. Bleaching and finishing machinery and plant	30%
21. Concrete pipe moulds	30%
22. Electric cookers and kettles	30%
23. Electronic data processing equipment	30%
24. Electronics manufacturing machinery and plant	30%
25. Motor vehicles	30%
26. Plastic manufacturing machinery and plant including moulds	30%
27. Shipping—	
Outboard motors	30%
28. Silk manufacturing machinery and plant	30%
29. Sulphuric and nitric acid plant	30%
30. Tank lorries	30%

Item	Rate of Depreciation
31. Textile and clothing manufacturing machinery and plant	30%
32. Tractors—bull dozers and graders	30%
33. Weaving, spinning, knitting and sewing machinery	30%
34. Machinery or plant, not specified in items 1 to 33, and used for the purposes of a transport, tunnel, dock, water, gas or electricity undertaking or a public telephone or public telegraphic service	10%
35. Any other machinery or plant, not specified in items 1 to 34	20%

(L.N. 149 of 1981)

Second Part

Item

1. Belting.
2. Crockery and cutlery.
3. Kitchen utensils.
4. Linen.
5. Loose tools.
6. Soft furnishings (including curtains and carpets).
7. Surgical and dental instruments.
8. Tubes for X-ray and infra-red machines.

(L.N. 81 of 1974)

Method of Ascertainment, for the Purposes of Section 16 of the Ordinance, of the Extent to Which Outgoings and Expenses are Incurred in the Production of Profits in Respect of Which a Person is Chargeable to Tax under Part IV of the Ordinance

2A. General apportionment of outgoings and expenses

- (1) No deduction shall be allowed for any outgoing or expense incurred in the production of profits not arising in or derived from Hong Kong, but where any outgoing or expense was incurred partly in the production of profits arising in or derived from within Hong Kong and partly in the production of profits arising or derived from outside Hong Kong, then, for the purpose of ascertaining the extent to which such outgoing or expense is deductible under section 16 of the Ordinance, an apportionment thereof shall be made on such basis as is most appropriate to the activities of the trade, profession or business concerned. *(7 of 1986 s. 12)*
- (2) Where, apart from or in addition to the circumstances referred to in paragraph (1) as giving rise to an apportionment, it is necessary to make an apportionment of any outgoing or expense by reason of it having been incurred not wholly and exclusively in the production of profits in respect of which a person is chargeable to tax under Part IV of the Ordinance, such apportionment or further apportionment, as the case may be, shall, subject to the provisions of rules 2B and 2C, be made on such basis as is most reasonable and appropriate in the circumstances of the case.

(L.N. 129 of 1965)

2B. Interest on borrowed money used in purchase of shares

- (1) Where interest is paid or payable on any sum of money

borrowed and used partly for the purpose of acquiring shares in a corporation which is chargeable to tax under Part IV of the Ordinance and partly for some other purpose or purposes, such interest as is attributable to the part used for the purpose of acquiring such shares shall, subject to paragraph (2), not be an allowable deduction, and where any apportionment is necessary to ascertain the amount of interest so attributable, it shall be made on such basis as is most reasonable and appropriate in the circumstances of the case.

- (2) Where a person is chargeable to tax under Part IV of the Ordinance in respect of profits from share dealing, no apportionment or disallowance of interest shall be made under paragraph (1) in respect of any money borrowed and used for the purpose of acquiring the shares constituting the subject-matter of such share dealing.

(L.N. 129 of 1965)

2C. Investment portfolios

- (1) Where the investment portfolio of any person who is chargeable to tax under Part IV of the Ordinance is, in the opinion of the assessor, sufficiently substantial to warrant making an adjustment in respect of the expenses of supervision and management of the portfolio, a due proportion of the management, clerical and general expenses attributable to the supervision and management of the investment portfolio shall be disallowed, and, unless a more practical and suitable basis is available in the circumstances of the case, the estimation of such due proportion of the management, clerical and general expenses shall be made on the basis of such percentage of the total cost of the investments and securities which comprise the investment portfolio as is most reasonable and appropriate in the circumstances of the case, not exceeding—

- (a) one-eighth per cent in any case where the investments are held not for purpose of, or not solely for the purpose of, producing profits by way of dividends, but for, or also for, the purpose of producing profits, by resale or share dealing;
 - (b) one-half per cent, in any other case.
- (2) Where the investment portfolio of any person who is chargeable to tax under Part IV of the Ordinance is not, in the opinion of the assessor, sufficiently substantial to warrant making an adjustment in respect of the supervision and management of the portfolio, no disallowance or apportionment shall be made under paragraph (1).

(L.N. 129 of 1965)

2D. Rights of objection and appeal

Any decision under rule 2A, 2B or 2C shall be subject to the same rights of objection and appeal as are conferred by Part XI of the Ordinance.

(L.N. 129 of 1965)

Method of Ascertainment and Determination of the Profits of the Hong Kong Branch of a Financial Institution Whose Head Office is Outside Hong Kong

(12 of 2016 s. 19)

3. Financial institution: profits of Hong Kong branch offices

(12 of 2016 s. 20)

- (1A) This rule has effect to the extent to which it is not inconsistent with sections 17B, 17C, 17D, 17E, 17F and 17G of the Ordinance. *(12 of 2016 s. 20)*

- (1) In this rule—

- (a) ***non-resident financial institution*** (境外財務機構) means any financial institution whose head office is situated outside Hong Kong;
- (b) ***Hong Kong branch*** (香港分行) means any business carried on in Hong Kong by a non-resident financial institution. (*12 of 2016 s. 20*)
- (2) Where any accounts prepared by a non-resident financial institution for its own purposes disclose, in the opinion of the Assessor, the true profits of the Hong Kong branch, the assessable profits shall be computed on the basis of such accounts. (*12 of 2016 s. 20*)
- (3) Where no accounts are prepared which in the opinion of the Assessor disclose the true profits of the Hong Kong branch, the following provisions shall apply in the determination of such profits—
- (a) the same proportion of the total profits of the non-resident financial institution as the assets of the Hong Kong branch bear to the total assets of the non-resident financial institution shall be treated as profits made from transactions in Hong Kong and shall be assessed accordingly;
- (b) for the purposes of determining the total profits of the non-resident financial institution, similar adjustments for tax purposes will be made in the accounts of the non-resident financial institution as would have been necessary had the whole of those profits been liable to tax under this Ordinance;
- (c) where the Assessor is of the opinion that it would be impracticable or inequitable to adopt the provisions of sub-paragraphs (a) and (b) of this paragraph, he may estimate the amount of the profits of the Hong Kong branch, and assess such profits accordingly:

Provided that any decision of an Assessor under this rule shall be subject to objection and appeal in accordance with the provisions of Part XI of the Ordinance. (*L.N. 101 of 1965; 12 of 2016 s. 20*)

(7 of 1986 s. 12)

4. (*Repealed 49 of 1956 s. 69*)

Method of Ascertainment and Determination of the Profits of the Hong Kong Branch of a Person, Other Than a Financial Institution, Whose Head Office is Outside Hong Kong

(12 of 2016 s. 21)

5. **Profits of Hong Kong branch offices of person other than financial institution**

(12 of 2016 s. 22)

(1) In this rule—

permanent establishment (永久機構) means a branch, management or other place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of his principal or has a stock of merchandise from which he regularly fills orders on his behalf;

person (人) includes a company, partnership, or body of persons.

(2) The Hong Kong profits of a person, other than a financial institution, having a permanent establishment in Hong Kong, but whose head office is situated outside Hong Kong, will be assessed as follows— (*12 of 2016 s. 22*)

(a) where the person keeps accounts for his Hong Kong establishment in such a way that his true profits arising in or derived from Hong Kong can be readily ascertained from those accounts, his assessment to

Profits Tax will be computed by reference to the profits disclosed in those accounts;

- (b) where the person's accounts do not disclose the true profits arising in or derived from Hong Kong, his tax liability will be computed by reference to his total profits wherever made. The same proportion of his total profits as his turnover in Hong Kong bears to his total turnover shall be treated as profits arising in or derived from Hong Kong and shall be taxed accordingly;
- (c) for the purposes of determining total profits of a person, similar adjustments for tax purposes will be made in his accounts as would have been necessary had the whole of those profits been liable to tax under the Ordinance;
- (d) where the Assessor is of the opinion that it would be impracticable or inequitable to adopt the provisions of sub-paragraphs (b) and (c) of this paragraph he may compute the amount of the profits arising in or derived from Hong Kong on a fair percentage of the turnover of the person in Hong Kong:

Provided that the decision of an Assessor under this rule shall be subject to objection and appeal in accordance with the provisions of Part XI of the Ordinance. (*L.N. 101 of 1965; 7 of 1986 s. 12*)

6. (*Repealed 17 of 1989 s. 23*)

7. **Transitional provisions**

The amendments made to rules 3 and 5 by the Inland Revenue (Amendment) (No. 2) Ordinance 2016 (12 of 2016) apply only in ascertaining the profits in respect of which a person is chargeable to tax under Part 4 of the Ordinance—

- (a) for the year of assessment beginning on the first day of April in the calendar year next following the day on which the amendments come into operation; or
- (b) for any subsequent year of assessment.

(12 of 2016 s. 23)