

**Department of Justice**  
**Recruitment of Government Counsel**  
**Written Test for Law Drafting Division**

**- Preview -**

**Question 1**

1. For this question, you will be asked to redraft a certain adapted English provision in the way demonstrated in the reference material in **Annex A**.
  
2. Specifically speaking, the **original version** of the provision contained in the reference material is redrafted as the **revised version** following it. While the effect of the provision remains unchanged, the revised version is better organized, more readable and clearer. In particular—
  - (a) an informative Part heading (“Tax Deduction for Domestic Rents”) is added for “Part 3”;
  - (b) that Part is divided into a few numbered sections (i.e. sections 1, 2 and so on) as needed and as appropriate;
  - (c) an informative heading is added for each section;
  - (d) where it is needed and is appropriate, each section is further divided as follows—
    - (i) a section is divided into subsections (i.e. subsections (1), (2) and so on), each containing a full sentence; and
    - (ii) a sentence is divided into paragraphs (i.e. paragraphs (a), (b) and so on) and is further divided into subparagraphs (i.e. subparagraphs (i), (ii) and so on), with each series of paragraphs (or subparagraphs) being linked by a conjunction “and” or “or” in the penultimate paragraph (or subparagraph);
  - (e) the sections, subsections, etc. are arranged in a logical sequence;
  - (f) unnecessary stylistic variations are avoided; and
  - (g) the concepts are expressed in a more precise way (including by way of omitting needless words or expressions and avoiding unnecessary repetitions), and where it is useful for enhancing preciseness, words and expressions are defined in an interpretation section (i.e. section 1).
  
3. Please study the reference material in depth in order to get yourself prepared for the task.
  
4. If you find it helpful, you may mark or write on the reference material. (**No** such marking or writing will be assessed as your answer to this question.)

## Annex A

### Original version:

#### Part 3

A deduction in respect of rents paid under a tenancy stamped in accordance with the Stamp Duty Ordinance (Cap. 117) (“stamped tenancy”) of any building in Hong Kong or any part of any building in Hong Kong (including but not limited to any bed-space, cubicle, room and floor) which is neither prohibited by or pursuant to any law nor prohibited by any Government lease, any deed of mutual covenant or any occupation permit from being used wholly or partly for residential purposes (“domestic premises”), other than any stamped tenancy under which an option to purchase the domestic premises, a right to purchase the domestic premises or a right of pre-emption in respect of the domestic premises is conferred on a person (“hire-purchase tenancy”), is allowable to the person for a year of assessment for the amount of rents paid under the stamped tenancy of such domestic premises during the year of assessment if the rents are so paid under the stamped tenancy by the person as a tenant and if the domestic premises concerned are, at any time during the year of assessment, used by the aforementioned person as a place of residence or dwelling place of the person, or otherwise used by the person as a place at which the person resides, provided that no deduction is allowable under this section to any person in respect of any rents paid under any stamped tenancy during a year of assessment if the person is during the whole of the year of assessment a tenant under a tenancy held from the Hong Kong Housing Authority (“HKHA”) of a flat of the kind, category or type commonly known as public rental housing, or is during the whole of the year of assessment a person who is authorized under a tenancy held from HKHA of a flat of the above kind, category or type to reside with the tenant at that flat; and further provided that no person would, merely by reason that the stamped tenancy concerned is a hire-purchase tenancy under which an option or right to purchase the domestic premises is conferred on the person, be disqualified from being allowed a deduction under this section so long as the option or the right is so conferred before the date on which section 5 of the Domestic Tenancies Ordinance comes into operation, whereas no person would, only by reason that the stamped tenancy concerned is a hire-purchase tenancy under which a right of pre-emption in respect of the domestic premises is conferred on the person, be so disqualified if the right is so conferred before the date on which section 6 of the Domestic Tenancies Ordinance (Cap. 700) comes into operation.

## Annex A

Revised version:

### Part 3

#### Tax Deduction for Domestic Rents

##### 1. Interpretation

In this Part—

“domestic premises” means a building in Hong Kong, or part of such a building (including a bed-space, cubicle, room and floor), that is not prohibited—

- (a) by or pursuant to any law; or
- (b) by—
  - (i) a Government lease;
  - (ii) a deed of mutual covenant; or
  - (iii) an occupation permit,

from being used, wholly or partly, for residential purposes;

“stamped tenancy” means a tenancy that is stamped in accordance with the Stamp Duty Ordinance (Cap. 117).

##### 2. Deduction for domestic rents

A deduction in respect of rents paid under a stamped tenancy of any domestic premises is allowable to a person for a year of assessment if—

- (a) the rents are paid under the tenancy during the year of assessment by the person as a tenant; and
- (b) the premises are used at any time during the year of assessment by the person as the person’s place of residence.

##### 3. Amount of deduction

The amount of deduction allowable to a person under section 2 for a year of assessment

## Annex A

is the amount of rents paid under the stamped tenancy concerned during the year of assessment.

### 4. Deduction not allowable in certain circumstances

(1) Section 2 does not apply in relation to any rents paid by a person under a stamped tenancy of any domestic premises during a year of assessment if—

(a) under the tenancy, an option or a right to purchase the premises, or a right of pre-emption in respect of the premises, is conferred on the person; or

(b) the person is during the whole of the year of assessment—

(i) a tenant, under a tenancy held from the Hong Kong Housing Authority, of a flat of the kind commonly known as public rental housing; or

(ii) a person who is authorized under such a tenancy to reside with the tenant at the flat.

(2) Despite subsection (1)(a), section 2 does apply in relation to any rents paid by a person under a stamped tenancy of any domestic premises mentioned in that subsection if—

(a) for a stamped tenancy under which an option or a right to purchase the premises is conferred on the person—the option or right is so conferred before the date on which section 5 of the Domestic Tenancies Ordinance (Cap. 700) comes into operation; or

(b) for a stamped tenancy under which a right of pre-emption in respect of the premises is conferred on the person—the right is so conferred before the date on which section 6 of that Ordinance comes into operation.

## Question 1 continued

5. Please redraft the English provision contained in **Annex B** to, while ensuring that the effect of the provision remains unchanged, make the provision better organized, more readable and clearer, in the way demonstrated in the reference material, i.e. Annex A. In particular, please—
  - (a) add an informative Part heading;
  - (b) divide the Part into a few numbered sections **as needed and as appropriate**;
  - (c) add an informative heading for each section;
  - (d) **where it is needed and is appropriate**, further divide the text into subsections (i.e. subsections (1), (2) and so on), paragraphs (i.e. paragraphs (a), (b) and so on) and subparagraphs (i.e. subparagraphs (i), (ii) and so on) in the way the text in the revised version of the provision contained in the reference material is divided;
  - (e) arrange the sections and subsections, etc. in a logical sequence;
  - (f) avoid unnecessary stylistic variations;
  - (g) express the concepts in a more precise way (including by way of omitting needless words or expressions and avoiding unnecessary repetitions), and **where it is useful for enhancing preciseness**, define words and expressions in an interpretation section; and
  - (h) otherwise follow closely the presentational style of the revised version of the provision contained in the reference material.
6. Please be reminded to—
  - (a) write your answer on the answer sheets (i.e. the lined sheets separately provided); and
  - (b) write your **seat number** on the upper right corner of each page of the answer sheets you use.
7. You are strongly advised to spend sufficient time to first analyze the original version of the provision in Annex B (by way of marking or writing on the Annex, jotting notes or writing outlines on the draft papers (i.e. the blank papers separately provided) or otherwise), and to attempt initial drafts on the draft papers, before writing down your answer. (**No** marking or writing on Annex B or the draft papers will be assessed as your answer to this question.)
8. The duration of this session is **105 minutes**.

## Annex B

*- Omitted for the preview -*

## Question 2

1. For this question, you will be asked to redraft certain adapted Chinese provisions in the way demonstrated in the reference material in **Annex C**.
2. Specifically speaking, the **original Chinese version** of the provisions contained in the reference material is drafted to convey the meaning that is conveyed by the English version of the provisions above it. Influenced by the English version of the provisions, the original Chinese version of the provisions does not conform to the usage of the Chinese language, and the fluency and readability of the provisions are compromised. The original Chinese version is then redrafted as the **revised Chinese version** following it. While the meaning conveyed by the English version is still fully adhered to, the revised Chinese version conforms to the usage of the Chinese language, and is fluent and readable.
3. Please study the reference material in depth in order to get yourself prepared for the task.
4. If you find it helpful, you may mark or write on the reference material. (**No** such marking or writing will be assessed as your answer to this question.)

## Annex C

### English version of the provisions (based on which the Chinese version is to be drafted):

1. *A responsible authority, in making a regulated instrument that transfers assets or rights of the transferor against which a liability is secured under a secured arrangement, is to seek to not transfer the benefit of the security unless the liability is also transferred under that instrument.*
2. *A responsible authority, in making a regulated instrument that transfers assets, rights and liabilities of the transferor that constitute, or form part of, a protected structured finance arrangement (not including any assets, rights and liabilities relating to a deposit made with the transferor), is to seek to transfer all, and not just some, of those assets, rights and liabilities.*
3. *Within the period of 60 days beginning on the day on which a regulated instrument is made in respect of an entity, a person may give a written notice to a responsible authority that made the instrument if—*
  - (a) *immediately before the making of the instrument the person was a party to a contract with the entity or the holder or beneficiary of a security interest in relation to an asset of the entity arising by operation of law; and*
  - (b) *the person considers that—*
    - (i) *the instrument has effected a transfer inconsistently with what that authority was required to seek to do or to not do by section 1 or 2 (as the case requires) in making the instrument; and*
    - (ii) *the person's assets, rights or liabilities under the contract have, or the security interest has, been affected by the making of the instrument.*



## Annex C

### Original Chinese version of the provisions:

1. 任何負責當局在訂立任何轉讓出讓人的根據某抵押保證安排有一項負債是以之抵押的資產或權利的受規管文書時，須尋求不轉讓該項抵押的利益，除非該項負債亦根據該文書轉讓。
2. 任何負責當局在訂立任何轉讓出讓人的構成受保障結構式金融安排或屬該項安排的一部分的資產、權利及負債(不包括與存於出讓人的存款有關的任何資產、權利及負債)的受規管文書時，須尋求轉讓全部，而非某些，該等資產、權利及負債。
3. 於自任何受規管文書就某實體訂立當日起計的 60 日內，某人可給書面通知予訂立該文書的負責當局，如 ——
  - (a) 在緊接該文書訂立前該人是該實體所訂立的某合約的一方或藉法律的施行而產生的關於該實體的資產的抵押權益的持有人或受益人；及
  - (b) 該人認為 ——
    - (i) 該文書已與第 1 或 2 條(視情況需要)規定該當局在訂立該文書時尋求做到或不做的事不符地達成一項轉讓；及
    - (ii) 該合約下的該人的資產、權利或負債已，或該抵押權益已，受該文書的訂立影響。

## Annex C

### Revised Chinese version of the provisions:

1. 凡任何負責當局訂立任何受規管文書，而該文書將出讓人的資產或權利轉讓，且根據某抵押保證安排，某項負債是以該資產或權利抵押的，則除非該項負債亦根據該文書轉讓，否則該當局在訂立該文書時，須尋求不將該項抵押的利益轉讓。
2. 凡任何負責當局訂立任何受規管文書，而該文書將出讓人的資產、權利及負債轉讓，且該等資產、權利及負債，構成受保障結構式金融安排，或屬該類安排的一部分，但並不關乎存於出讓人的存款，則該當局在訂立該文書時，須尋求將該等資產、權利及負債全部轉讓，而非只將其中部分轉讓。
3. 凡任何負責當局就某實體訂立任何受規管文書，而 ——
  - (a) 在緊接該文書訂立前，某人是該實體所訂立的某合約的一方，或者，有任何關於該實體的資產的抵押權益，藉法律的施行而產生，而在緊接該文書訂立前，某人是該權益的持有人或受益人；及
  - (b) 該人認為 ——
    - (i) 該文書已在與第 1 或 2 條(視情況所需而定)規定該當局在訂立該文書時尋求做到或尋求不做的事不符的情況下，達成一項轉讓；及
    - (ii) 該人在該合約下的資產、權利或負債，或該抵押權益，已受該文書的訂立所影響，則該人可於自該文書訂立當日起計的 60 日內，給予該當局書面通知。

## Question 2 continued

5. Please redraft the **Chinese version** of the provisions contained in **Annex D** in the way demonstrated in the reference material, i.e. Annex C. In doing so, please ensure that—
  - (a) the meaning conveyed by the English version of the provisions contained in Annex D is fully adhered to; and
  - (b) the redrafted Chinese version conforms to the usage of the Chinese language and is fluent and readable.
  
6. Please be reminded to—
  - (a) write your answer on the answer sheets (i.e. the lined sheets separately provided); and
  - (b) write your **seat number** on the upper right corner of each page of the answer sheets you use.
  
7. You are strongly advised to spend sufficient time to first analyze the bilingual versions of the provisions contained in Annex D (by way of marking or writing on the Annex, jotting notes or writing outlines on the draft papers (i.e. the blank papers separately provided) or otherwise), and to attempt initial drafts on the draft papers, before writing down your answer. (**No** marking or writing on Annex D or the draft papers will be assessed as your answer to this question.)
  
8. The duration of this session is **60 minutes**.

## Annex D

English version of the provisions (which need not be redrafted for Question 2):

*- Omitted for the preview -*

## Annex D

Chinese version of the provisions (to be redrafted for Question 2):

*- Omitted for the preview -*

### Question 3

1. Each of the 15 sets of draft provisions extracted below has an inherent drafting pitfall. Please identify it, with a brief explanation.
2. For the purposes of this task, please assume that any terms used in the draft provisions the meaning of which appears to be unclear are properly defined somewhere else. In other words, the lack of any definition is not the pitfall.
3. Please answer in English for Part 1, and in Chinese for Part 2.
4. Certain **examples** are provided below for illustration.
5. Please be reminded to—
  - (a) write your answers in the space provided on these question sheets directly; and
  - (b) write your **seat number** in the space provided in the upper right corner of each of these question sheets.
6. The duration of this session is **60 minutes**.

#### Example 1

...

(1) This section applies to—

(a) any person who was born before 1 January 2000; or

(b) any Hong Kong permanent resident who was born before 1 January 1990.

...

*Answer:*

Paragraph (b) is redundant because a Hong Kong permanent resident who was born before 1 January 1990 must already fall within the description of paragraph (a).

## **Example 2**

...

- (2) If the Authority approves an application made under subsection (1), the Authority must issue to the applicant—
- (a) a certificate that certifies the approval; and
  - (b) the certificate must specify an expiry date for the purposes of subsection (3).

...

*Answer:*

The paragraphing is improper because paragraph (b) does not follow “must issue to the applicant” coherently.

## **Example 3**

...

- (2) 署長凡已拒絕申請人的領隊牌照申請，不得再次申請領隊牌照。

...

*Answer:*

次分句不當地省略了主語(“申請人”)，令首分句的主語“署長”銜接到次分句，造成語義錯誤。

**Part 1**  
**(To be answered in English)**

**Extract A**

*- Omitted for the preview -*

*Answer:*

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**Extract B**

*- Omitted for the preview -*

*Answer:*

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**Extract C**

*- Omitted for the preview -*

*Answer:*

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**Extract D**

*- Omitted for the preview -*

*Answer:*

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**Extract E**

*- Omitted for the preview -*

*Answer:*

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**Extract F**

*- Omitted for the preview -*

*Answer:*

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**Extract G**

*- Omitted for the preview -*

*Answer:*

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**Extract H**

*- Omitted for the preview -*

*Answer:*

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**Extract I**

*- Omitted for the preview -*

*Answer:*

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**Extract J**

*- Omitted for the preview -*

*Answer:*

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**Part 2**  
**(To be answered in Chinese)**

**Extract K**

*- Omitted for the preview -*

*Answer:*

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**Extract L**

*- Omitted for the preview -*

*Answer:*

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**Extract M**

*- Omitted for the preview -*

*Answer:*

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**Extract N**

*- Omitted for the preview -*

*Answer:*

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**Extract O**

*- Omitted for the preview -*

*Answer:*

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**- End of Test -**