

HONG KONG RETAIL MANAGEMENT ASSOCIATION

**Submission on Employment Support Scheme
under Government's Anti-Epidemic Fund**

24 April 2020

I. Introduction

1. The Government announced a second round of Anti-epidemic Fund measures in face of growing impact of the COVID-19 epidemic on 8 April 2020.
2. The HK\$137.5 billion package includes an HK\$80 billion Employment Support Scheme (ESS) to help employers retain employees and avoid redundancies.
3. In regard to the ESS, although the Government would announce details in early May, the Hong Kong Retail Management Association (the Association) would like to provide a summary of suggestions to the Government in advance, highlighting several key issues on headcount definition and requirements, calculation of subsidies, and the Government's communication strategy about the objectives of the ESS.

II. Employing Entity

4. There might be various approaches interpreted in the community regarding the basis of entity in the calculation scope of subsidy, which might cause inconsistency in the subsequent execution of the Scheme.
5. The Association recommends adopting the concept of "Employing Entity" to scope the headcount base as well as the calculation base of subsidy.
6. This recommended approach, which is the same base of Hong Kong Tax Return filing, is easy to understand and on fair basis across the community.

III. Headcount Definition

7. As noted from the latest available information from the Government, the ESS requires an eligible employer to give an undertaking that they cannot implement redundancy, which means that the number of employees in the subsidy period cannot be smaller than the number of employees in March 2020.
8. As headcount is the key concept of the entire scheme, the Association urges the Government to consistently define the reference headcount in March and the headcount of respective months during the subsidy period.
9. The Association suggests the calculation of the number of employees in March 2020, i.e. “March Headcount”, as follows:
 - i. Employees who received wages in the month of March 2020 and who were still under employment by the Employing Entity as at 31 March 2020 will be counted in the “March Headcount”.
 - ii. Following (i), employees who were on long term absence for any reason without wage payment in March 2020 will be excluded and not counted against “March Headcount”.
10. For the headcount during the subsidy period i.e. from June to November 2020, we suggest to follow the same definition applied for “March Headcount” as follows:
 - i. In a particular month from June to November 2020, employees who receive wages in that month and who are still under employment by the Employing Entity as at the end of respective month should be counted.
 - ii. Similarly, employees who are on long term absence for any reason without wage payment in respective month will be excluded and not counted as the headcount of that particular month.

IV. Changes in Headcount

11. To be eligible for the ESS, the Association concurs that the employers should maintain their employee population during the subsidy period with reference to the “March Headcount” at all possible.
12. However, there could be unavoidable changes in headcount due to some of the following practical reasons, which do not represent an exhaustive list:
 - i. Natural attrition (high staff turnover is very common in the retail sector and frontline employees always leave with short notice)
 - ii. Retirement
 - iii. Replacement lead time takes longer than expected
 - iv. Store closure due to lease expiry which leads to employees being terminated or employees not willing to be transferred to other job
 - v. Unexpected changes in business situation such as part of the business is forced to exit Hong Kong and relevant employees are terminated, for example, overseas parent brands leaving Hong Kong market
13. In view of the above, the Association suggests the Government to consider allowing certain flexibility in headcount changes during the subsidy period.
14. It is proposed that a 5% change in headcount during the subsidy period should be allowed, i.e. as long as the headcount at the end of any month during the subsidy period is at least 95% or more as compared to March reference headcount, the employer is still eligible for the ESS.

Clawback Mechanism

15. In case of non-compliance of the above-mentioned requirements for a particular month, the Government may put in place a clawback mechanism for that concerned month, which is

suggested to be proportional to the difference of headcount between the March reference headcount and actual headcount of the concerned month.

V. On Calculation of Wage Subsidy

Relevant Income

16. The Association suggests applying consistently “Relevant Income” of employees as calculation basis of the subsidy regardless of Mandatory Provident Fund (MPF) or Occupational Retirement Schemes (ORSO) memberships.
17. On MPF, companies use unique contribution basis of “Relevant Income”, which including commissions, bonuses and allowances and etc according to the MPF Ordinance.
18. The ORSO is an exempted alternative scheme to the standard MPF scheme adopted by some major employers in Hong Kong. The ORSO schemes are in general perceived by many employees as a better retirement protection scheme providing higher benefits upon retirement but contribution formula varies from employer to employer, including the adoption of Relevant Income, Fixed Income or Basic Salary.
19. Regardless of the above practices, employers are paying the same to employees indiscriminately in terms of monthly payroll expenses, and therefore we recommend adopting “Relevant Income” as the universal base in the calculation of subsidy, which appears to be fair and consistent.
20. The “Relevant Income” approach also applies a unique and simple definition which alleviates the administration burden of the employers in providing accurate data to the Government.

Calculations of First & Second Batches of Subsidy

21. According to the available Government information, for the first batch of subsidy, the employers may pick one of the months from January, February and March 2020 as base month to apply for the payroll subsidy whereas the headcount reference month has been set to March 2020, while the mechanism for the second batch of subsidy is yet to announce.

22. The Association suggests the Government to apply same mechanism to both first and second batches, allowing an employer to pick one of the months from January, February and March 2020, for example, the month of January 2020 as the unique reference month for the subsidies of both batches; and that the month of March 2020 as the headcount reference month for both batches as well.
23. This would ease administration both on the part of the Government and the employers, and it would also avoid the hassle to define one more reference base for the second batch of subsidy and allow employers earlier planning based on a pre-defined mechanism in one go in May when the employer makes an application for the subsidy.

Tax Exemptions

24. The Association would like to request that employers are allowed for tax exemptions for the subsidies under this ESS, as well as other employers' schemes under the Government's Anti-epidemic Fund.
25. We appreciate the Government's goodwill and objective to support enterprises to survive through this period to safeguard jobs and relieve the huge pressure of increasing unemployment in Hong Kong.
26. Given this objective, the Association deem that the subsidies should be direct, straightforward and in full-fledged, exempted from the normal taxation system to maximize the effect of the assistance to the enterprises, and eventually benefit the workforce of the whole community.

VI. On Government's Communications

The Public's Misconceptions about ESS

27. There are some prevailing public misconceptions about the subsidy that it is not kind of subsidy in lump sum offsetting the total payroll expenses, but to be handed out to individual employees by employers.
28. In particular, it is generally taken by the public that the HK\$9,000 subsidy per employee per month is the amount payable to individual employee's monthly income, in addition to

their salaries, i.e. employees are expecting to receive up to HK\$9,000 per month during the subsidy period, or to have the subsidy to top-on their existing salary.

29. To correct the misconceptions stated above, the Government should swiftly enhance its communication with the public and give clear explanations that the ESS is not a wage hand-out to the employees, but instead a measure to assist the enterprises to lower the overall payroll burden in order to maintain the business operations and thus retain jobs.

Core Message on ESS to the Public

30. Despite the Government's goodwill in the ESS, we are very much concerned that the misconceptions of the general public may turn a good endeavour into a serious cause for heightened conflicts in the community, especially between employers and employees at this most difficult times.

31. In this regard, we implore the Government to promulgate the core objective of the ESS to the community clearly and succinctly, particularly with the following highlights on the subsidy, including:

- i. it is solely for the purpose to assist employers to alleviate their salary burden amid heightened pressures to opt for lay-offs;
- ii. it is not a direct salary assistance to individual employees, nor an add-on salary benefit; and
- iii. the ultimate goal is to safeguard jobs through protecting enterprises from closures.

32. The Association believes apart from giving out financial assistance to the employers, the success of ESS hinges tremendously on a holistic communication strategy of the Government, which above all should be able to promote understanding and mutual trust between employees and employers at this critical crisis.

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