



Hong Kong Tax Newsflash

New procedures on application for tax exemption status as charitable bodies

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The Inland Revenue Department (IRD) has introduced a new procedure on application for tax exemption status as charitable bodies under Section 88 of the Inland Revenue Ordinance. This is in response to the Policy Statement¹ on developing family office businesses in Hong Kong issued by the Hong Kong SAR Government in March 2023 where one of the policy measures is to develop Hong Kong into a philanthropic centre for global family offices and philanthropists.

The IRD has also provided a [guidance on writing charitable purposes in the governing instruments](#) to assist organization in preparing the governing instruments².

New procedures for application for tax exemption status as a charity

Previously, applicants wishing to apply for tax exemption status as a charity were required to submit the documents listed in the [tax guide for charitable institutions and trusts of a public character](#) to the IRD. The IRD has formalized the procedures by including all the information and documents required in an [application form](#). Applicants are now required to complete an application form and provide the documents specified therein to the IRD.

The information required is broadly the same as in the previous practice except that additional information is required to be provided in case the

applicant intends to take over or replace an existing entity after obtaining the tax exemption status. If the applicant is a trust, a list of members / settlors should also be provided. To demonstrate that the activities undertaken are for charitable purposes, applicants are required to provide a list of activities with detailed descriptions. The IRD has now devised a proforma in the [Annex](#) to the application form to set out the details required.

Our comments

The new family office tax concession³ was put in place in May 2023 such that a Section 88 tax-exempt charitable entity may hold up to 25% (compared to 5% in general for non-family members) of beneficial interest (direct or indirect) in an eligible single family office and/or a family-owned investment holding vehicle and still eligible for the tax concession. More Section 88 tax-exempt charitable entities may be established in view of the above. Therefore, it is welcomed for the IRD to introduce the new procedure on application for tax exemption status under Section 88 of the IRO as it would facilitate the submission of applications and streamline processing.

The application form includes more details on the information required and provides an indication of what the IRD would consider in approving the tax exemption status for a charity. One of the determining factors is whether the organization is established or carried on exclusively for charitable purpose. For this purpose, the IRD will examine the object clause of the charity's governing instrument. In addition, if a charity derives profits from a business which is not exercised in the course of the actual carrying out of the expressed objects in the governing instrument, such profits may not be qualified for tax exemption. As such, a charitable organization should pay attention in drafting its object clause at the initial set-up stage. It is welcomed that the IRD provides *guidance on writing charitable purposes in the governing instruments* and *examples of charitable objects* in order to facilitate organizations to prepare precise statement of charitable objects.

Applicants wishing to apply for tax exemption status as charitable bodies should be aware of the new application procedures and read the *tax guide for charitable institutions and trusts of a public character* before submitting an application. They are also recommended to consult professional advisors as the rules contain a lot of details and the tax treatment is not straight forward.

1 https://gia.info.gov.hk/general/202303/24/P2023032300717_415645_1_1679627481405.pdf

2 *A formal document setting out the key provisions regarding the charity's administration such as the charitable purposes or objects, composition of the governing body and how the meetings will be held.*

3 *The Inland Revenue (Amendment) (Tax Concessions for Family-owned Investment Holding Vehicles) Ordinance 2023. For details, please refer to our [Hong Kong Tax Newsflash Issue 180](#).*

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