

LCQ15: Tax-exempt charities

Following is a question by the Hon Chan Hak-kan and a written reply by the Secretary for Financial Services and the Treasury, Mr Christopher Hui, in the Legislative Council today (July 14):

Question:

Under section 88 of the Inland Revenue Ordinance (Cap. 112), if a charitable institution or charitable trust of a public character fulfills certain requirements (including that the profits derived from the trade or business carried on by it are applied solely for charitable purposes, and such profits are not expended substantially outside Hong Kong), it may be exempt from profits tax (tax-exempt charity). It has been reported that a tax-exempt charity made, through a trust that is not a tax-exempt charity, large donations to a number of overseas organisations in early 2019. In this connection, will the Government inform this Council:

- (1) of the respective current numbers of charitable institutions and charitable trusts which are tax-exempt charities;
- (2) of the following information in each of the past three years and since January this year:
 - (a) the respective numbers of applications made by (i) charitable institutions and (ii) charitable trusts for being recognised as having tax exemption status that were received, approved and rejected by the Inland Revenue Department (IRD);
 - (b) the respective numbers of tax-exempt charities whose tax exemption status was (i) reviewed and (ii) withdrawn by the IRD (with a breakdown by reason for withdrawal); and
 - (c) the number of reported cases similar to the aforesaid case that were received, and the number of such cases in respect of which follow-up actions were taken, by the IRD; the respective shortest, longest and average processing time for the concluded cases; and
- (3) whether it will step up efforts to check tax-exempt charities to deter tax-exempt charities from using tax-exempt profits (including charitable donations) for non-charitable purposes (such as transferring them for personal gains); if so, of the details; if not, the reasons for that?

Reply:

President,

(1) As at June 30, 2021, the respective numbers of charitable institutions and charitable trusts recognised by the Inland Revenue Department (IRD) as

tax-exempt under section 88 of the Inland Revenue Ordinance (IRO) are as follows:

| | |
|------------------------------------|-------|
| Tax-exempt charitable institutions | 9 033 |
| Tax-exempt charitable trusts | 493 |
| Total | 9 526 |

(2) (a) In the past three years and since January this year, the numbers of applications received by the IRD for recognition of tax exemption status under section 88 of the IRO are as follows:

| Year | Number of applications received (Note 1) | 2018 | 2019 |
|----------------------|--|------|------|
| 2019 | 546 | | |
| 2020 | 589 | | |
| 2021 (up to June 30) | 316 | | |

In the past three years and since January this year, the numbers of charitable institutions and charitable trusts recognised by the IRD as tax-exempt under section 88 of the IRO are as follows:

| Year | Number of charities recognised as tax-exempt | | |
|----------------------|--|-------------------|-------|
| | Charitable institutions | Charitable trusts | Total |
| 2018 | 287 | 9 | 296 |
| 2019 | 287 | 7 | 294 |
| 2020 | 419 | 6 | 425 |
| 2021 (up to June 30) | 224 | 6 | 230 |

The IRD does not keep statistics on the number of rejected applications.

(b) In the past three years and since January this year, the numbers of reviews on the tax exemption status of charities conducted by the IRD are as follows:

| Year | Number of reviews on tax exemption status of charities (Note 2) |
|------|---|
| 2018 | 3 175 |
| 2019 | 2 960 |
| 2020 | 2 101 |

| | |
|----------------------|-------|
| 2021 (up to June 30) | 1 705 |
|----------------------|-------|

In the past three years and since January this year, the numbers of charities with recognition of tax exemption status withdrawn by IRD and the reasons for withdrawals are as follows:

| Year | Number of charities with recognition of tax exemption status withdrawn | Reasons for charities with recognition of tax exemption status withdrawn | | | |
|----------------------|--|--|---|---|--|
| | | (i) Dissolved or wound up | (ii) Ceased operation or became dormant | (iii) No response to the IRD's enquiries or untraceable | (iv) No longer qualified for the status of a charitable institution or trust of a public character |
| 2018 | 192 | 71 | 26 | 93 | 2 |
| 2019 | 265 | 107 | 19 | 136 | 3 |
| 2020 | 247 | 113 | 20 | 114 | 0 |
| 2021 (up to June 30) | 117 | 55 | 6 | 55 | 1 |

(c) The numbers of complaints received involving charities with follow-up actions taken by the IRD since 2018 are as follows:

| Year | Number of complaints received with follow-up actions taken by the IRD (Counted in terms of the number of charities) |
|----------------------|---|
| 2018 | 33 |
| 2019 | 30 |
| 2020 | 23 |
| 2021 (up to June 30) | 11 |

The IRD does not keep statistics on the complaints in terms of their nature, including the processing time required. Nonetheless, the IRD follows up on each complaint diligently. The lead time required for handling a complaint case varies depending on the timeliness of the response and the completeness of information and documents furnished by the charity as well as whether there is a need for the IRD to seek clarification and/or obtain

additional information from the charity, etc.

(3) The IRD is responsible for the administration of the IRO. Assessment and collection of taxes are its primary duties. In so far as charities are concerned, the statutory powers of the IRD are confined to processing applications for recognition of tax exemption under section 88 of the IRO, and ensuring that the recognised charities comply with the tax exemption conditions as stipulated under section 88 of the IRO, including the compatibility of their activities with their charitable objects.

The IRD has all along been taking appropriate measures to ensure that the charities concerned comply with the tax exemption conditions as stipulated under section 88 of the IRO. Generally speaking, the IRD conducts the first review on newly recognised tax-exempt charities two years after their recognition. For existing tax-exempt charities, the review is conducted at least once every three years. Should available information indicate that a charity has carried out suspected non-charitable activities, the IRD will take actions on the case concerned after considering the relevant facts and circumstances e.g. advancing the review on the tax-exempt charity concerned and withdrawing the recognition of its tax exemption status if it is ascertained that the charity is no longer eligible for tax exemption.

Note 1: The IRD cannot provide the respective numbers of applications concerning charitable institutions and charitable trusts as the IRD does not keep statistics on the structures of the applicants before recognition of their tax exemption status.

Note 2: It refers to the number of review questionnaires issued in the year concerned.