Information Leaflet
Board of Review (Inland Revenue Ordinance)

Constitution

The Board of Review (Inland Revenue Ordinance) (hereinafter referred to as the Board) is an independent statutory body constituted since 1947 under section 65 of the Inland Revenue Ordinance (Cap 112) (hereinafter referred to as the IRO) to hear and determine tax appeals. The law provides that the Board shall consist of a chairman and ten deputy chairmen, who shall be persons with legal training and experience, and not more than 150 other members, all of whom shall be appointed by the Chief Executive.

Functions and Procedures

Any person (hereinafter referred to as the appellant) may lodge an appeal by giving notice of appeal in writing to the clerk to the Board (hereinafter referred to as the clerk) under the following circumstances :-

(i)   He has validly objected to an assessment by the Commissioner of Inland Revenue (hereinafter referred to as the Commissioner) but with whom the Commissioner in considering the objection has failed to agree. He may lodge an appeal within one month after the transmission of the Commissioner's written determination. The notice of appeal must be accompanied by :-

   (a)   a copy of the Commissioner's written determination; and

   (b)   a statement of the grounds of appeal.

(ii)   He has been assessed to additional tax under section 82A of the IRO. He may lodge an appeal within one month after the date of issue of the notice of assessment. The notice of appeal must be accompanied by :-

   (a)   a copy of the notice of assessment;

   (b)   a statement of the grounds of appeal;

   (c)   a copy of the notice of intention to assess additional tax under section 82A(4), if any such notice was given by the Commissioner; and

   (d)   a copy of any written representations made under section 82A(4) by the appellant.

A panel with at least three members, one of whom shall always be either the chairman or a deputy chairman, is formed to hear and determine a tax appeal. Decision is made on the basis of a majority of votes, and if there is an equality of votes, the member presiding has a casting vote in addition to his original vote.

On receipt of a notice of appeal, the clerk shall fix a time for the hearing of the appeal and give 14 clear days' notice to the appellant and the Commissioner. At any time before the hearing of an appeal, the appellant may withdraw the appeal by notice in writing addressed to the clerk; or the appellant and the Commissioner may reach a settlement on the amount at which the appellant is liable to be assessed.

An appellant shall attend the meeting of the Board at which the appeal is heard in person or by an authorised representative. Notwithstanding the above, the Board may, if satisfied that an appellant will be or is outside Hong Kong on the date fixed for the hearing of the appeal and is unlikely to be in Hong Kong within such period thereafter as the Board considers reasonable, on the appellant's written application received by the clerk at least 7 days before the hearing date, proceed to hear the appeal in the absence of the appellant or his authorised representative. In such case, the Board may consider the written submissions as the appellant may submit to the Board.

All appeals shall be heard in camera. The onus of proving that the assessment appealed against is excessive or incorrect shall be on the appellant. He should therefore ensure that he has available at the hearing all witnesses he intends to call and all documents on which he places reliance in support of his appeal. He should have 7 paginated copies of each relevant document with 5 copies for the Board, 1 copy for the Commissioner and 1 copy for the witness. In order to avoid any adjournment of the appeal, all documents should be lodged with the Board with copies to the Commissioner no less than 14 days before the scheduled hearing date.

An appellant is usually given a choice at the hearing of either making an unsworn statement or alternatively giving evidence on oath in support of his appeal. The appellant will not normally be cross examined if the former option is adopted but will be cross examined by representative of the Commissioner should the latter option be chosen. In deciding which of the 2 courses to adopt, the appellant should bear in mind that the onus of proving that the assessment appealed against is excessive or incorrect rests on him. The Board in general will attach greater weight to evidence tested by the process of cross-examination.

After hearing the appeal, the Board shall confirm, reduce, increase or annul the assessment appealed against or may remit the case to the Commissioner for re-assessment. Where the Board does not reduce or annul such assessment, the Board may order the appellant to pay as costs of the Board a sum not exceeding $5,000 which shall be added to the tax charged. Such order is in the discretion of the Board and is a material consideration in the exercise of such discretion if the proceeding has been conducted frivolously, vexatiously or an abuse of process.

After hearing an appeal, the Board shall deliver the decision of the Board which is normally in written form. The decision shall be final provided that either the appellant or the Commissioner may make an application requiring the Board to state a case on a question of law for the opinion of the Court of First Instance of the High Court. Such application shall be in writing and delivered to the clerk, accompanied by a cheque of $770 payable to the HKSAR Government, within one month of the date of the Board's decision.

By virtue of the Electronic Transaction Ordinance (Cap. 553), the legal status of electronic information will be recognized as the same as its paper counterparts. Enquiries and appeal applications can be directed to us electronically at bor@fstb.gov.hk. You are also welcome to visit our homepage at http://www.info.gov.hk/bor.

Format, manner and procedure for the submission of electronic information are attached at **Appendix I** of this leaflet.

(Note: The above information is for general reference by members of the public. The conduct of hearing and disposal of appeals by the Board are governed by sections 65 to 69A and 82B of the Inland Revenue Ordinance (Cap 112).)

Office of the Clerk to the Board of
Review (Inland Revenue Ordinance)
February 2010

**General Format, Manner and Procedure for the Submission of Electronic Information
under Law by virtue of the Electronic Transactions Ordinance (Chapter 553)**

Points to Note

(This Note aims to set out the format, manner and procedure we have stipulated under section 11(2) of the Electronic Transactions Ordinance (Cap. 553) for the submission of electronic information under law. It is for general reference by members of the public only. The format and manner of electronic submissions are governed by Electronic Transactions Ordinance (Cap. 553) as promulgated in the Gazette Notice 2352 on 3 April 2014, which is available for downloading at the website of the HKSAR Government at http://www.ogcio.gov.hk/en/regulation/eto/ordinance/eto_submission.htm. The requirements stipulated in the Gazette Notice apply with effect from 1 May 2014.)

The information given or presented, document served or the signature made in the form of an electronic record, as the case may be, for the purposes of the Inland Revenue Ordinance (Cap. 112) (the Ordinance) to which the Electronic Transactions Ordinance applies will not satisfy the Ordinance unless it complies with all the requirements herein specified, subject to any respective requirement or relaxation stipulated in 11.

1. Electronic records which contain English characters only shall be coded in American Standard Code for Information Interchange (ASCII), ISO/IEC 10646-1:2000, ISO/IEC 10646:2003 with Amendment 1 or ISO/IEC 10646:2011.

2. Electronic records which contain Chinese characters shall be coded as follows:

    (a) Chinese and English characters shall be coded in ISO/IEC 10646-1:2000, and the set of Chinese characters is restricted to the Chinese characters within the Chinese-Japanese-Korean (CJK) Unified Ideographs defined in ISO/IEC 10646-1:2000 or the characters included in the Hong Kong Supplementary Character Set - 2001(HKSCS-2001);

    (b) Chinese and English characters shall be coded in ISO/IEC 10646:2003 with Amendment 1, and the set of Chinese characters is restricted to the Chinese characters within the CJK Unified Ideographs defined in ISO/IEC 10646:2003 with Amendment 1 or the characters included in HKSCS-2004; or

    (c) Chinese and English characters shall be coded in ISO/IEC 10646:2011, and the set of Chinese characters is restricted to the Chinese characters within the CJK Unified Ideographs defined in ISO/IEC 10646:2011.

3. Where electronic records are compressed, the following compression standards shall be followed: -

    (a) Zip file (.zip);

    (b) GNU zip file (.gz);

    (c) 7-Zip file (.7z); or

    (d) RAR file (.rar).

4. Electronic records shall be sent as follows:-

    (a)   through electronic mail conforming to:-

        i.   Simple Mail Transfer Protocol (SMTP) or Simple Mail Transfer Protocol over Transport Layer Security (SMTP over TLS);

        ii.   Multipurpose Internet Mail Extension (MIME) or Secure Multipurpose Internet Mail Extension (S/MIME) standard; and

        iii.   size not exceeding 10MB;

    (b)   in the form of 1.44MB diskette with size of 3.5 inches in MS-DOS format for files not exceeding one diskette's storage capacity;

    (c)   in the form of CD-ROM in ISO 9660 format;

    (d)   in the form of DVD-ROM in ISO/IEC 13346:1995 format; or

    (e)   in the form of USB Mass Storage Device in FAT format.

5. An electronic record and all electronic records contained in it shall be given, served and presented in the following file format standards:-

File Format	Standard(s)
(a) Text Format	Plain text format (TXT)
(b) Formatted Document File Format	Microsoft Rich Text Format (RTF); Hypertext Mark Up Language (HTML); Microsoft Word 97 format (.doc); ISO/IEC 29500:2008 format (.docx); or OpenOffice.org v2.0 format (.odt)
(c) Presentation File Format	Microsoft PowerPoint 97 format (.ppt); ISO/IEC 29500:2008 format (.pptx); or OpenOffice.org v2.0 format (.odp)
(d) Spreadsheet File Format	Microsoft Excel 97 format (.xls); ISO/IEC 29500:2008 format (.xlsx); or OpenOffice.org v2.0 format (.ods)
(e) Portable Document Format	Adobe Portable Document Format (PDF) v1.2, 1.3, 1.4, 1.5, 1.6 or 1.7 (ISO 32000-1)
(f) Graphics or Image Format	Encapsulated PostScript Files (EPSF); Tag Image File Format (TIFF); Portable Network Graphics (PNG); Graphics Interchange Format (GIF); or Joint Photographic Experts Group (JPEG)
(g) Computer Aided Design Drawings Format	Autodesk Drawing Exchange Format (DXF)

6.	An electronic record given, presented or served under a statutory provision must be signed with a digital signature if:-

    (a)	the provision expressly requires the signature of a person; or

    (b)	the provision requires the submission to be made in a specified form and the specified form has a signature requirement.

7.	When a digital signature is used, it shall be attached to an electronic record in accordance with the following standards:-

    (a)	Secure Multipurpose Internet Mail Extension (S/MIME) standard;

    (b)	Public-Key Cryptography Standards (PKCS#7); or

    (c)	PDF v1.5/1.6/1.7 (ISO 32000-1).

8.	For an electronic record which comprises multiple electronic records and which has to be signed, each individual record shall be separately signed digitally.

9.	Electronic records given, presented or served shall not contain any computer instructions, including but not limited to:-

    (a)	computer viruses; and

    (b)	macros, scripts and fields that depend on the execution environment and the execution of which will cause changes to the electronic record itself or the information system displaying the electronic record.

10.	For submission of Government forms to Government, the Electronic Government Forms (in the form of a software) should be used to generate electronic records and, if required, to make digital signatures. The format of individual supporting document, if any, attached in an electronic record should comply with all the relevant requirements specified in 1 to 9.

11.	For Sections 41, 51(4)(a), 51(8), 52(2), 52(4), 52(5), 52(6), 63E, 63J, 63O, 64 and 70A of the Ordinance, electronic records and any digital signatures associated with the electronic records, given or presented to Government through GovHK are acceptable.

12.	The following words or terms used in this Note shall have the meanings as stipulated below:-

Adobe Portable Document Format (PDF)	The document format promulgated by Adobe Systems Incorporated [Document reference and version: PDF Reference, Version 1.2, Version 1.3, Version 1.4, Version 1.5, Version 1.6 and Version 1.7 (ISO 32000-1)].
American Standard Code for Information Interchange (ASCII)	The standard for the coding of characters promulgated by the American National Standards Institute (ANSI) [Document reference: ANSI-X3.4-1986 (R1997)] and the International Organization for Standardization [Document reference: ISO/IEC 646].
AutoCAD Format	The graphics file format for the use in AutoCAD, which is a Computer Aided Design (CAD) software developed by Autodesk, Inc.

Autodesk Drawing Exchange Format (DXF)	The three-dimensional graphics file format for the use in Computer Aided Design (CAD) systems promulgated by Autodesk, Inc. [Document reference: AutoCAD Release 13 DXF Ref. – v.u13.1.01, AutoCAD Release 14 DXF Ref. – v.u14.1.04 and AutoCAD 2000 DXF Ref – v.u15.0.02 & v.u16.1.01].
Chinese-Japanese-Korean (CJK) Unified Ideographs	The Chinese, Japanese and Korean unified ideographs coded in the ISO/IEC 10646-1:2000, ISO/IEC 10646:2003 with Amendment 1 or ISO/IEC 10646:2011.
Electronic Government Forms	Government forms, in the form of a software, provided by Government to generate electronic records in a pre-defined format for members of the public to fill in electronically and submit to Government through electronic means.
Encapsulated Postscript Files (EPSF)	The graphics file format promulgated by Adobe Systems Incorporated [Document reference and version: Encapsulated PostScript File Format Specification Version 3.0 (May 1992)].
FAT	The File Allocation Table (FAT) is a computer file system supported by popular operating systems. Also, the FAT format refers to three major variants of the file system, namely FAT12, FAT16 and FAT32.
GNU Zip File Compression Standard	GNU Zip (gzip) is a compression utility. [Document reference and version: The format of the GNU Zip file (.gz) version 4.3 (IETF RFC 1952) (May 1996)].
GovHK	The information system designated and used by Government for providing specified public services or information online to, and receive electronic information from, members of the community through the internet and other electronic means.
Graphics Interchange Format (GIF)	The graphics file format version 89a promulgated by CompuServe Incorporated [Document reference and version: Graphics Interchange Format Version 89a (July 1990)].
HKSCS-2001 (Hong Kong Supplementary Character Set -2001)	The set of Chinese characters promulgated by the Government of the Hong Kong Special Administrative Region [Document reference: Document of HKSCS-2001 (December 2001)].
HKSCS-2004 (Hong Kong Supplementary Character Set -2004)	The set of Chinese characters promulgated by the Government of the Hong Kong Special Administrative Region [Document reference: Document of HKSCS-2004 (May 2005)].
Hypertext Mark Up Language Format (HTML)	The document format promulgated by the World Wide Web Consortium (W3C) [Only those features of HTML v4.01 that are implemented in common by the prevailing versions of popular browsers should be used.].
ISO 9660	The universal standard for the volume and file structure of CD-ROM for information interchange promulgated by the International Organization for Standardization (ISO) [Document reference: ISO 9660:1988].

ISO/IEC 10646:2011	The universal standard for the coding of characters in a multi-language environment promulgated by the International Organization for Standardization (ISO) [Document reference: ISO/IEC 10646:2011 (March 2011)].
ISO/IEC 10646:2003 with Amendment 1	The universal standard for the coding of characters in a multi-language environment promulgated by the International Organization for Standardization (ISO) [Document reference: ISO/IEC 10646:2003 (December 2003) and ISO/IEC 10646:2003 Amendment 1 (November 2005)].
ISO/IEC 10646-1:2000	The universal standard for the coding of characters in a multi-language environment promulgated by the International Organization for Standardization (ISO) [Document reference: ISO/IEC 10646-1:2000]. The standard is compatible with the commonly known Unicode.
ISO/IEC 13346:1995	The universal standard for the volume and file structure of write-once and rewritable media using non-sequential recording for information interchange promulgated by the International Organization for Standardization (ISO) [Document reference: ISO/IEC 13346:1995].
ISO/IEC 29500:2008	The universal standard for document formats with file extensions, namely .docx, .pptx and .xlsx, represent files created by office applications using the ISO/IEC 29500:2008 standard.
Joint Photographic Experts Group (JPEG)	The graphics file format promulgated by the International Organization for Standardization (ISO) [Document Reference: ISO/IEC 10918-1:1994] and the International Telecommunication Union (ITU) [Document Reference: ITU-T T.81 (09/92)].
MB	The measure of the size of an electronic record. A byte is a standard unit for computer information. One MB (mega-byte) means 1 048 576 bytes of information.
Microsoft Excel 97 format	The Microsoft spreadsheet format (.xls) used by Microsoft Excel 97 and later versions.
Microsoft PowerPoint 97 format	The Microsoft presentation format (.ppt) used by Microsoft PowerPoint 97 and later versions.
Microsoft Rich Text Format (RTF)	The document format promulgated by Microsoft Corporation [Document reference and version: RTF Version 1.6 (May 1999)].
Microsoft Word 97 format	The Microsoft Word document format (.doc) used by Microsoft Word 97 and later versions.
Multipurpose Internet Mail Extension (MIME)	MIME is an extension of the SMTP protocol that enables the exchange of different kinds of data files on the Internet: audio, video, images, application programs, and other kinds, as well as ASCII handled in the original protocol. [Document reference: IETF RFCs 2045, 2046, 2047, 2048, 2049, 2231, 2387, 2392, 2557, 2646 and 3023].

1.44MB diskette with size of 3.5 inches in MS-DOS format	A diskette with 1.44MB capacity and size of 3.5 inches complying with the format specified by Microsoft Corporation for the use in the MS-DOS operating system.
OpenOffice.org v2.0 format	The document formats with file extensions, namely .odt, .odp and .ods, represent files created for OpenOffice.org v2.0 or later, which are based on OpenDocument 1.0.
Plain Text (TXT)	The document format in which a sequence of characters and the words they form are encoded into computer-readable format using language encoding schemes (i.e. American Standard Code for Information Interchange (ASCII), ISO/IEC 10646-1:2000 with HKSCS-2001, and ISO/IEC 10646:2003 with Amendment 1 with HKSCS-2004) specified in this Note. Plain text does not contain formatting or structural information. It can be in the form of "content-type:text/plain" in an electronic mail or a file that can be opened by common text editors.
Portable Network Graphics (PNG)	The standard for image compression published by the Internet Engineering Task Force (IETF) [Document reference and version: PNG second edition (ISO/IEC 15948:2003) (November 2003)].
Public-Key Cryptography Standards (PKCS#7)	A general syntax defined by RSA Security, Inc. for data that may have cryptography applied to it. [Document reference and version: PKCS #7: Cryptographic Message Syntax Standard Version 1.5 (IETF RFC 2315 (March 1998))].
RAR File Compression Standard	RAR is a compressed archive file format that supports multipart archives, several compression/encryption algorithms, and Unicode filenames.
Secure Multipurpose Internet Mail Extension (S/MIME)	S/MIME is the standard of the format of electronic mail message promulgated by the Internet Engineering Task Force (IETF) [Only those S/MIME (version 3) enabled e-mail client software should be used.].
Simple Mail Transfer Protocol (SMTP)	The standard for the protocol for the exchange of electronic mail among computer systems promulgated by the Internet Engineering Task Force (IETF) [Document reference and version: IETF RFCs 5321 and 5322 (October 2008)].
Simple Mail Transfer Protocol over Transport Layer Security (SMTP over TLS)	Simple MaiI Transfer Protocol over Transport Layer Security (SMTP over TLS) is to enhance the confidentiality and authenticity of Internet e-mail exchange on top of SMTP [Document reference and version: lETF RFC 3207 (February 2002)].
Tag Image File Format (TIFF)	The graphics file format promulgated by Adobe Systems Incorporated [Document reference and version: TIFF Version 6.0 (June 1992)].
Universal Serial Bus (USB) Mass Storage Device	A mass storage device with an integrated USB interface to become accessible to a host computing device for file storage and transfers.
Zip File Compression Standard	The standard for file compression promulgated by WinZip Computing Incorporated [Document reference and version: IETF RFC 1951 (May 1996)].
7-Zip File Compression Standard	7-Zip is a file archiver with a high compression ratio.

13.   This Note shall not apply unless the information is given or presented, the document is served or the signature is made, in the form of an electronic record, to a government entity as defined in the Electronic Transactions Ordinance, or a person acting on behalf of that government entity.

(Cap553e)