

Press release

LCQ1: Operation of charitable organisations and funds

Wednesday, May 12, 2010

Following is a question by the Hon Paul Chan Mo-po and a reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (May 12):

Question:

From time to time in recent years, there have been reports that the governance or utilisation of resources of quite a number of charitable organisations and funds which appeal to the public for donations do not have a high degree of transparency. In this connection, will the Government inform this Council:

(a) whether it knows the number of charitable organisations and funds established in the past 10 years and in what form they were established, and how many of such charitable organisations and funds had been found to be in breach of rules as well as the rules involved and, among them, the number of those whose tax exemption status had been removed as a result, and whether the authorities had recovered from them the tax payable during the period concerned; if so, of a breakdown by year of the amount involved;

(b) whether in the past 10 years the authorities had, after uncovering that charitable organisations and funds were in breach of rules, conducted any corresponding review and taken improvement measures; if so, of the details; if not, the reasons for that; and

(c) whether it knows if the review being undertaken by the Law Reform Commission on the law and regulatory framework relating to charitable organisations includes issues on the governance and operation of charitable organisations, and when the review outcome will be published; whether the Government will conduct any review on areas such as the guidelines on financial reporting (including financial reports and audits) and the best practices in corporate governance of charitable organisations and funds, etc.?

Reply:

President,

My reply to the question is as follows -

(a) Currently, there is no statutory definition of what constitutes a charity or a charitable purpose, nor is there a single piece of legislation which governs charities in Hong Kong and how donations are applied. A charity can be established in different forms, including a trust body, a society established under the Societies Ordinance, a corporate registered under the Companies Ordinance, an organisation established under a statute, etc. We do not have the number of charities established in the past ten years.

According to section 88 of the Inland Revenue Ordinance (IRO), charitable institutions or trusts of a public character should apply to the Commissioner of Inland Revenue if they wish to enjoy tax exemption. Applications should be supported by copies of relevant certificates of registration, the instruments and rules governing their activities (e.g. the Memorandum and Articles of Association, the Trust Deed, or the Constitution) and lists of activities carried out in the past year and/or to be carried out in the coming year, so as to demonstrate that the applicants' objects are charitable and their activities are compatible with their objects. In the past ten financial years, a total of 3,860 charitable bodies have been granted tax exemption status under section 88 of IRO. During the same period, a total of 730 charitable bodies have been disqualified for such tax exemption status due to various reasons such as cessation of operation or the bodies are untraceable. However, Inland Revenue Department (IRD) does not have statistical breakdown on the reasons for disqualification. IRD will review the accounts of the disqualified bodies and recover back tax as appropriate. IRD does not have statistical breakdown on the amount of back tax from source.

(b) and (c) A sub-committee of the Law Reform Commission was appointed in September 2007 to conduct a review of the legal and regulatory framework relating to charities in Hong Kong. This review includes issues related to the operation and governance of charities. In the course of its review, the sub-committee has also been studying the charity laws in a number of common law jurisdictions, such as Australia, England, Scotland and New Zealand. At this stage, the sub-committee expects to release a consultation paper on its findings within this year.

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