



事先裁定申請表
Application for Advance Ruling

本表格供所有納稅人親自或經由代表填寫，用以申請就 1998 年 4 月 1 日 以後擬進行的安排作出裁定。

This form is for use by all taxpayers, either personally or by their representative, applying for a ruling concerning a proposed arrangement to be entered into after 1 April 1998.

局長只可就與《稅務條例》(第112章)附表 10 所列載事項有關的問題作出裁定。

The Commissioner may only issue a ruling for question(s) concerning the matters listed in Schedule 10 of the Inland Revenue Ordinance, Cap. 112 ("IRO").

在填寫表格前，請閱讀夾附的「申請事先裁定資料單張」。

Read the attached "Application for Advance Ruling Information Sheet" before you complete this form.

將填妥的表格寄交： 香港灣仔告士打道 5 號稅務大樓 36 樓
稅務局副局長（技術事宜）

Post the completed form to: The Deputy Commissioner of Inland Revenue (Technical)
36/F Revenue Tower, 5 Gloucester Road, Wan Chai, Hong Kong

A. 申請人資料 Applicant details

填寫這項裁定所關乎的當事人的資料。

Complete the details of the person to whom the ruling will apply.

申請人全名 Applicant's full name

稅務局檔案號碼 Inland Revenue Department File No.

地址 Address

日間電話號碼 Daytime phone number

傳真號碼 Fax number

是否聯名申請？

Is this a joint application?

(請在適當格內加上「0」號)

(Please 0 the appropriate box)

否
 是

No
Yes

請另行提供列表，詳載每名申請人的上述資料，並將有關列表夾附於本表格第4頁。

Please provide a separate schedule showing the above details for each applicant.

Attach the schedule to page 4 of this form.

B. 代表的資料 Representative details

代表的全名 Representative's full name

地址 Address

日間電話號碼 Daytime phone number

傳真號碼 Fax number

如有查詢，可聯絡下列人士 Contact person for enquiries

C. 申請裁定的事項 Matter for which ruling is sought

(請在適當格內加上「0」號)

(Please 0 the appropriate box)

服務公司

Service Companies

地域來源的徵稅原則

Territorial Source Principle

其他 (請加以說明) :

Others (please specify):

D. 局長的裁定權 *Commissioner's power to rule*

局長在某些情況下可拒絕作出裁定：

The Commissioner may not issue a ruling in certain circumstances:

(請在適當格內加上「Ö」號) (Please Ö the appropriate box)	否 No	是 Yes
1. 有關安排是否一宗反對或上訴個案的標的事項？ Is the arrangement in question subject to an objection or appeal?	<input type="checkbox"/>	<input type="checkbox"/>
2. 申請裁定的問題是否涉及在申請裁定時已到期須繳付的稅款？ Does the question to which the application relates concern a tax that is due and payable as at the date of this application?	<input type="checkbox"/>	<input type="checkbox"/>
3. 申請人曾否就有關安排取得裁定？ Has the applicant previously obtained a ruling about the arrangement?	<input type="checkbox"/>	<input type="checkbox"/>
4. 申請人是否已提交或已到期提交有關報稅表？ Has the relevant return been lodged or is it due to be lodged?	<input type="checkbox"/>	<input type="checkbox"/>
5. 申請人目前是否稅務局進行稅務審計的對象，或申請人是否已獲稅務局通知擬就有關安排作出稅務審計？ Is the applicant currently the subject of an audit by the Inland Revenue Department or has the applicant been notified of a proposed tax audit about the arrangement?	<input type="checkbox"/>	<input type="checkbox"/>

E. 披露資料的規定 *Disclosure requirements*

你或你授權的代表可就稅務條例的任何條文如何適用於你或任何一項安排申請事先裁定。你須提供下列資料：

You, or your authorised representative may apply for a ruling on the way in which any provision of the IRO applies to you and to any particular arrangement. You will need to provide the following information:

1. 局長須答覆的問題 你須指明申請裁定的問題。
Question(s) to be **answered** by the Commissioner You should identify the question(s) in respect of which the ruling is requested.
2. 局長須考慮的事宜 你須指明須予考慮的法律及其他事宜。
Issue(s) to be **considered** by the Commissioner You should identify the legal and other issues(s) to be considered.
3. 各項事實的詳盡說明 你須披露該安排的所有有關事實及文件。
A full description of the facts You must disclose all relevant facts and documents relating to the arrangement for which the ruling is sought.
4. 在要求就稅務條例的條文作出裁定的情況下，敘明該條文。
State the provision of the IRO in respect of which the ruling is sought.
5. 敘明與申請提出的爭論點有關的法律觀點（如有的話）：
State the propositions of law (if any) which are relevant to the issue(s) raised in this application:
 - (i) 與申請有關的稅務條例條文。
Sections of the IRO that are relevant to the application.
 - (ii) 就草擬裁定中所採用條文的詮釋提供法律理據。
Legal reasons and authoritative support for the interpretation of the section(s) adopted in the draft ruling.
 - (iii) 可能與草擬裁定中所採用的詮釋相反的論點及其法律理據。
Possible arguments that are contrary to the interpretation adopted in the draft ruling and legal reasons and authoritative support.
 - (iv) 局長須知悉的其他有關資料或資料來源，以確保本局取得所有有關事實和法例資料。
Other material or relevant matters or sources of information the Commissioner should be made aware of to ensure access to all the pertinent facts and law.
6. 提供一份草擬裁定。
Provide a draft ruling.

局長可豁免第 4 及 5 項中任何披露資料的規定。

The Commissioner may waive the requirement to comply with any of the disclosure requirements requested in items 4 and 5.

有意向局長申請此豁免者，請解釋為何不能提供所需資料。

If you want the Commissioner to waive any or all of these requirements, explain why you are unable to provide the information requested.

F. 一般問題 General questions

1. 申請涉及哪個課稅年度或期間？

To which year of assessment(s) or period(s) does this application relate?

課稅年度由	<input type="text"/>	至	<input type="text"/>
Year of assessment from		to	
期間由	<input type="text"/>	至	<input type="text"/>
Period from		to	

2. 申請人（或與申請人相聯繫的人）或其代表曾否就其他課稅年度或其他期間作出這項申請（或同類申請）？

Has this application (or a similar application) been lodged by, or on behalf of, the applicant(s) (or associated person of the applicant(s)) for any other year of assessment or other period?

(請在適當格內加上「0」號) 否

(Please 0 the appropriate box) No

是
Yes

請於下列空格列出有關通訊日期、課稅年度或期間、及回信（如你曾接獲的話）上所載的編號。

Please print below the date of the relevant correspondence, and the appropriate year of assessment or other period, together with the reference quoted on the response (if you have received one).

3. 如申請由代表作出，有關代表必須取得申請人的書面同意，並在接獲要求時將該同意書提交予局長。

Where this application is made on behalf of an applicant(s) the representative must have the written consent of the applicant(s). The written consent(s) must be supplied on request to the Commissioner.

附註：所作裁定會寄交申請人。但如有關申請是由代表作出，則裁定會寄交代表。

Note: The ruling will be sent to the applicant(s). Where the application is made by a representative on behalf of an applicant(s), the ruling will be sent to the representative.

代表是否持有每名申請人的書面同意？

Is written consent of each applicant held?

(請在適當格內加上「0」號) 不適用 是
(Please 0 the appropriate box) Not applicable Yes

G. 諮詢 Consultation

如所擬作出裁定的內容與申請人所要求的不同，局長在作出裁定前，可給予申請人一個合理的諮詢機會。

Before the Commissioner makes a ruling the Commissioner may give the applicant a reasonable opportunity to consult if the content of his proposed ruling differs from that requested by the applicant.

H. 申請費用 Application Fee

申請人必須繳交申請費用。在本局收取申請費後，局長才會處理你的申請。

There is an application fee. The Commissioner will not begin to process your application until the fee is received.

附上申請費用 Fee enclosed: \$30,000 \$10,000
(請在適當格內加上「0」號) 就地域來源的徵稅原則作出裁定 就其他事項作出裁定
(Please 0 the appropriate box) for rulings on Territorial Source Principle for rulings on other matters

支票號碼：

Cheque no. : _____

銀行：

Bank : _____

I. 聲明 Declarations

請在簽署前確保你已回答所有問題，包括下文的所需程序清單中所載的問題。

Before signing please make sure you have answered all the questions, including those contained in the checklist below.

申請表內所載資料為正確無誤

The details contained in this application are true and correct

申請人簽署
Applicant(s) signature

日期
Date

代表聲明 (如申請由代表所作出)

Declaration by representative where application is made on behalf of an applicant(s)

申請表內所載資料為正確無誤

The details contained in this application are true and correct

代表簽署
Representative's signature

日期
Date

J. 所需程序清單 Checklist

本清單有助你提供一份完整的裁定申請書。如你回答所有問題及提供所需資料，可更快獲得回覆。

This checklist is a prompt to help you provide a complete application for a ruling. If you answer all questions and provide the information requested you will receive a quicker response.

(請在適當格內加上「0」號)

(Please 0 the appropriate box)

- | | 否
No | 是
Yes |
|---|--------------------------|--------------------------|
| 1. 你是否已詳盡解釋有關爭論點及詳盡說明有關事實?
Have you fully explained the issue(s) in question and given a full description of the facts? | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. 你是否已提供有關安排涉及的所有其他人士的姓名?
Have you provided the names of all other parties to the arrangement? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. 你是否已附上你就所提出問題已取得的法律或其他意見?
Have you included any legal or other opinions that you have obtained on the question(s) raised? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. 你是否已附上與所提出問題有關的一切文件?
Have you included all relevant documents that relate to the question(s) raised? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. 你是否已附上一份草擬裁定?
Have you included a draft ruling? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. 你是否已附上申請費用?
Have you included the application fee? | <input type="checkbox"/> | <input type="checkbox"/> |

附註：如有需要，局長可要求你提供進一步的資料。

Note: The Commissioner may request further information if appropriate.

資料不足會延誤本局處理你的申請，或使局長無法作出裁定。

The absence of sufficient information may significantly delay the response time for your application or may result in the Commissioner being unable to rule.

請將填妥的申請書交回：

香港灣仔告士打道 5 號稅務大樓 36 樓
稅務局副局長 (技術事宜)

**Please return the completed application form to: The Deputy Commissioner of Inland Revenue (Technical)
36/F, Revenue Tower, 5 Gloucester Road
Wan Chai, Hong Kong**

Information Sheet

Application for Advance Ruling

The Inland Revenue (Amendment)(No. 2) Ordinance 1998 introduces a system for issuing rulings on tax matters.

The ruling system is available to taxpayers who want a ruling which is legally binding on the Commissioner. The Inland Revenue Department will continue to give advice on more general matters through our enquiry areas, Departmental Interpretation & Practice Notes, etc. Rulings are binding only in respect of the taxpayer(s) identified in them and cannot be taken as a precedent for other taxpayers.

Who can apply for a Ruling?

A person can apply for a ruling on the way in which any provision of the Inland Revenue Ordinance, Cap. 112 (“IRO”) applies to that person in relation to a proposed arrangement. Schedule 10 of the IRO provides that the Commissioner may make a ruling on any provision thereof.

However the Commissioner cannot make a ruling on any of these matters:

- the exercise of the Commissioner’s right or obligation to exercise penal or investigative powers, or prosecute or recover debt from any person; and
- law concerned with the administration of the tax system.

The Commissioner may also make a ruling on how the Commissioner will exercise the Commissioner’s discretion under any of the provisions of the IRO.

An “arrangement” means any contract, agreement, plan or understanding (whether enforceable or unenforceable), including all steps and transactions by which it is carried into effect.

Note: The Commissioner may make a ruling on how a provision of the IRO applies to the arrangement described in an application whether or not reference was made to that provision in the application.

What is this information sheet for?

This information sheet will help you complete your application for a ruling. If you want to obtain a ruling you must fill out the form and send it to:

The Deputy Commissioner of Inland Revenue (Technical)
36/F, Revenue Tower, 5 Gloucester Road
Wan Cahi, Hong Kong

Introduction

Your ability to complete all aspects of the form will depend upon your familiarity with the relevant law and the complexity of the issues involved. If you are unable to:

- (i) state the provision of the IRO in respect of which the ruling is sought;
- (ii) state the propositions of law (if any) in respect of which the ruling is sought; and
- (iii) provide a draft ruling to the Commissioner,

you can apply to the Commissioner to waive any or all of these requirements.

Statements or reasons and draft answers to the issues and questions identified are useful because they ensure that the Commissioner fully understands what ruling you are seeking and why you are seeking it. A full understanding of the requirements and reasons of the applicant(s) should avoid unnecessary delays.

The form is divided into 5 parts

- Details of the applicant and representative
- Commissioner’s power to rule
- Disclosure requirements
- General questions
- Consultation, application fee, declarations and checklist

Applicant and representative details

The front page of the form requests the applicant and representative (where the application is made on behalf of an applicant(s)) to provide certain details.

Representative details

Where a representative is making an application on behalf of an applicant(s), the representative must supply his details and those of the applicant(s). The ruling will be sent to the representative.

Commissioner’s power to rule

The questions in this part are designed to determine whether the Commissioner has the power to rule on the arrangement in question.

1. The Commissioner may not rule on an arrangement which is subject to an objection or appeal either by the person who applied for the ruling or any other person.
2. The Commissioner may not rule on a tax that is due and payable at the date of application for a ruling.
3. The Commissioner may not rule if a ruling already exists on how a provision of the IRO applies to the person and the arrangement.
4. The Commissioner may not rule if the relevant return has been or is due to be lodged.
5. The Commissioner may not rule if the Commissioner is undertaking an audit on how a provision of the IRO applies to the person or an arrangement similar to the arrangement specified in the application.

Disclosure requirements

The items in this part deal with the disclosure requirements. The law requires this information before the Commissioner will issue a ruling. Attach the information to the form on separate sheets, together with any relevant documents.

1. You need to state clearly what question(s) you want the Commissioner to answer.
2. You need to identify the issue(s) which you need to resolve.
3. You must set out a full description of the facts and the arrangement in question. You must disclose all relevant facts and documents relating to the arrangement for which the ruling is sought, for example the fact that a party to the arrangement is an associated person may be a relevant fact. Accordingly, appropriate disclosure should be made.
4. You must state the provision(s) of the IRO in respect of which the ruling is sought.
5. You are required to state the propositions of law (including case law) which are relevant to the issues raised in your application.

To the extent that it is relevant and material to your application, you must set out any legal reasons and arguments supporting your preferred interpretation. You should also indicate any legal arguments you are aware of that may be contrary to your interpretation.

Where relevant to do so, you should refer to the wording of the relevant taxation law and provide reasonable authoritative support. If you have obtained written advice from a lawyer or accountant, you should attach copies of that advice or correspondence to the application.

6. You must provide a draft ruling.
7. If you cannot provide all the information required above you can ask the Commissioner to waive all or any of these requirements. You need to explain why you cannot provide the information requested.

Note: The Commissioner may at any time request further relevant information.

General questions

This part deals with general questions which will enable the Commissioner to quickly determine whether the application satisfies the requirements of the legislation.

1. What is the year(s) of assessment or other period(s) to which the application relates?
2. Has an application been lodged in respect of the arrangement for other year(s) of assessment or other period(s)?
3. If the application concerns more than one taxpayer have you obtained the written consent of all the taxpayers?

Consultation

Before the Commissioner makes a ruling the Commissioner may give the applicant(s) a reasonable opportunity to consult if the content of his proposed ruling differs from that requested by the applicant(s).

Application fee

Have you included payment of the application fee with your application? Rulings are charged on a full cost recovery basis.

Declarations and checklist

Have you signed and dated the application declaring the truth and accuracy of the information provided?

The checklist is to help you ensure the ruling application is correctly completed in a form approved by the Commissioner. It is also particularly useful for checking whether all attachments that should accompany the ruling application are attached.

Conclusion

You may withdraw your application for a ruling at any time before a ruling is made. This may be done by giving notice in writing to the Commissioner. Withdrawal of an application will not affect your liability for any fees incurred in processing the application up to the date of withdrawal.

If you require further assistance in the preparation of your ruling application, please contact:

The Deputy Commissioner of Inland Revenue (Technical)
36/F, Revenue Tower, 5 Gloucester Road
Wan Chai, Hong Kong

Personal Information Collection Statement

- The Information provided by you will be used for purposes relating to the administration of tax laws in this Department.
- This Department may give some of the information to other parties authorized by laws to receive it.
- Subject to exemptions under the Personal Data (Privacy) Ordinance, you have a right of access and correction with respect to personal data.
- Request for personal data access and correction should be addressed to the Assessor, Inland Revenue Department, GPO Box 132, Hong Kong. Please also quote your file number in this Department.