



BUILDING A GROWTH-FRIENDLY TAX ENVIRONMENT

Introduction for the Procedures of Domestic Tax Disputes Resolution

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Part 01

Internal review
by the tax administration



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Objection by a taxpayer

Requirements of a valid objection



01

Received within 1 month / extended period

02

In writing with precise grounds of objection

03

Together with a completed return if the assessment was estimated in the absence of a return



Processing of objection



- Consider the validity of objection and grounds of objection
- Further information/facts may be required
- Revise the assessment if, based on the information/evidence provided, the claim can be accepted/agreement can be reached
- Refer to the Commissioner for his determination in cases where no agreement is possible
- The Commissioner may confirm, reduce, increase or annul the assessment
- A written determination with his reasons for the determination and a statement of the facts will be issued
- Right of appeal to the Board of Review

1

2

3



Part 02

Independent review
by an external body



Appeal to the Board of Review



Constitution of the Board of Review

- Independent statutory body to hear and determine tax appeals
- As at 31 March 2020, the Board consisted of a chairman, 8 deputy chairmen, who have legal training and experience, as well as 69 members
- Each hearing panel consists of 3 or more members

Requirements of a valid appeal

- Received within 1 month / extended period
- In writing with a statement of the grounds of appeal and a copy of the Commissioner's determination
- Also serve on the Commissioner a copy of the notice of appeal and the statement of the grounds of appeal

Hearing of an appeal

- Fact-finding body responsible for making findings of facts and reviewing body responsible for reviewing the Commissioner's application of the law
- The onus of proving that an assessment is excessive or incorrect is on the taxpayer
- The Board shall confirm, reduce, increase or annul the assessment or may remit the case to the Commissioner together with its opinion



Part 03

Independent review
by a higher court



Appeals to the Courts

Levels of Courts



01

Court of First Instance
- lower court of the High Court of Hong Kong

02

Court of Appeal
- upper court of the High Court of Hong Kong

03

Court of Final Appeal
- final appellate court in Hong Kong



Part 04

Correction of an error or omission



Final and conclusive

- An assessment shall be final and conclusive where no valid objection or appeal has been lodged within the relevant time limit
- The assessment would also be deemed final and conclusive as regards the amount assessed where
 - an appeal against an assessment has been withdrawn or dismissed;
 - an assessment has been revised by the Commissioner allowing the taxpayer' s objection; and
 - an assessment has been determined on objection or appeal



Circumstances for re-opening an assessment after finality

- Application made within 6 years after the end of a year of assessment or within 6 months after the date on which the relevant notice of assessment was served, whichever is the later
- The tax charged is excessive by reason of an error or omission in any tax return (or statement submitted in respect of a tax return) or by reason of an arithmetical error or omission in the relevant tax calculation
- “Error” means something incorrectly done through ignorance or inadvertence
- A change of opinion could not be regarded as an error or omission
- No error in the context of estimated assessment
- No correction if a tax return or statement was prepared on the basis of the general practice prevailing at that time
- Rights to lodge objection and appeal



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THANKS