

Guidance notes to taxpayers who disagree to IRD assessments

First of all, I would like you to note that the usual letters published on this website are for reference only. Every case has its own merits. No one model letter can suit all cases. You should adapt the letter to meet the situation of your case. Below is my general advice.

Exercise your rights to objection and section 70A claim. Read “What to do if you disagree with an assessment” in my book Hong Kong Tax Tips. Although paying tax is every taxpayer’s obligation, you need only pay the tax that it is rightly and lawfully assessed. You can object to IRD if you are wrongly assessed by the IRD.

Mind the time limits of objection and section 70A claim. The time limit for a valid objection is one month after the day of the assessment; whereas the time limit for a section 70A claim is 6 years after the relevant year of assessment. If you are late, you can write to the IRD to explain about the delay and ask for their acceptance of your late objection or late claim.

Write to the IRD. In general, a letter is more powerful than a phone call. A verbal objection is invalid in law. A verbal claim can be forgotten by the officer receiving your phone call. State your grounds of objection or claim clearly. Just saying the assessment wrong is insufficient. You should state why it is wrong, and preferably you should propose how the

assessment should be revised.

Ask for holding-over of the tax in dispute. If you pay the tax in dispute and your objection or claim is successful, the IRD will not pay you interest on the overpayment. On the other hand, if the tax in dispute is held-over unconditionally and you lose the case, no interest will be payable on the provisional tax that is in dispute but interest may be chargeable for the tax in dispute. So, if you are not very confident you will win ultimately, you should ask for the tax in dispute to be covered by the purchase of Tax Reserve Certificate; and in that case if you win, you can earn interest and even if you lose, you need not pay interest for the tax in dispute because such tax is covered by the Tax Reserve Certificate.

Send your letter by post and by fax. Unless you have a digital certificate, your e-mail of objection or claim will not be valid in law because it has not been duly signed. To expedite your claim, I suggest you faxing your letter to the IRD at the fax number provided in the IRD notice of assessment. Follow up your claim by phone call. If you do not receive a reply from the IRD within a month, phone them.

Tell IRD your new correspondence address if the address shown in the notice of assessment is incorrect.

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