

GOVERNMENT'S SUPPORT AND MONITORING OF CHARITIES

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1. Charities make an important contribution to the community. The Government has provided various support to them, including: (a) tax exemption under the Inland Revenue Ordinance (IRO — Cap. 112) (for 8,923 recognised charitable organisations as at September 2016) and tax deduction for donations made to tax-exempt charities (totalling \$11.84 billion for the year of assessment 2014-15); (b) granting land at a nominal premium to non-profit-making charitable institutions mainly for operating schools, hospitals and social welfare facilities; and (c) provision of recurrent subventions to some of these institutions for providing services primarily in the education, social welfare and health sectors.

2. There is no overall statutory scheme for the registration and regulation of charities in Hong Kong. Depending on their legal forms and whether they have sought recognition of tax exemption status and government support, charities are subject to the monitoring and/or registration framework of different government bureaux/departments (B/Ds), as follows:

(a) ***Inland Revenue Department (IRD)***. The IRD is responsible, as a tax administrator, for raising revenue through taxes, duties and fees in accordance with the relevant legislation. In addition to making tax assessments, collecting taxes, and other statutory functions, it processes applications for the recognition of tax exemption status of charities under section 88 of the IRO. Charities are chargeable to profits tax if they carry on trade or business with profits in Hong Kong and fail to satisfy the provisions of section 88;

(b) ***Lands Department (Lands D)***. Land is made available by the Government by way of a private treaty grant (PTG) at nominal or concessionary premium or a short term tenancy at nominal or concessionary rent to non-profit-making organisations for operating schools, hospitals, and social welfare and community facilities. Many of the entities receiving such land grants are tax-exempt charities. In such

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cases, the charitable organisations are regulated by the Lands D and the supporting B/Ds to ensure their compliance with the conditions of land grant and the policy intention of granting the land;

- (c) **Companies Registry (CR).** The CR is responsible for administering and enforcing the Companies Ordinance (Cap. 622) for some 1.34 million limited companies on the Companies Register. As at September 2016, 6,619 charities which obtained tax exemption status under section 88 of the IRO were incorporated as companies under the Companies Ordinance;
- (d) **Hong Kong Police Force (HKPF).** The Societies Office of the HKPF is responsible for administering the Societies Ordinance (Cap. 151) and granted registration or exemption from registration to 37,861 local societies as at September 2016. 1,000 societies so registered or exempted from registration were charities and 811 of which had obtained tax exemption status under section 88 of the IRO;
- (e) **Education Bureau (EDB).** Under the Education Ordinance (Cap. 279), all aided schools are required to set up incorporated management committees (IMCs). Direct Subsidy Scheme schools may opt to establish IMCs under the Ordinance. As at September 2016, 772 of the 846 IMCs on the EDB's Register of IMCs obtained tax exemption status under section 88 of the IRO; and
- (f) **Home Affairs Bureau (HAB).** As at September 2016, there were 2,480 tax-exempt charities established for purposes of advancement of religion. It is the Government's policy to respect the autonomy of religious organisations. However, the Chinese Temples Ordinance (CTO — Cap. 153) was enacted in 1928 to suppress and prevent mismanagement of Chinese temples and abuses of donated funds. The Chinese Temples Committee (CTC) is established, with the Secretary for Home Affairs as the Chairman, to regulate Chinese temples. As at September 2016, 347 of around 600 Chinese temples were registered with the CTC under the CTO. Of these 347 registered Chinese temples, 45 were administered directly or indirectly by the CTC, with the remaining 302 managed by individuals or organisations. Of the 347 registered temples, 129 were managed by tax-exempt charities.

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The Audit Commission (Audit) has recently conducted a review on the Government's support and monitoring of charities with a view to identifying areas for improvement.

Administration of tax exemption of charities and tax-deductible donations

3. According to the legal advice obtained by the IRD, section 88 of the IRO does not confer on it the power to grant tax exemption status. What section 88 provides is that charitable institutions or trusts of a public character are exempt from tax and they can seek recognition of such exemption by the IRD. They will be put on a list of charitable institutions or trusts of a public character maintained by the IRD subject to their consent. The IRD is not responsible for the governance of a charity, nor does it have regulatory power over the operation of a charity. As administrative procedures, it will conduct periodic reviews to see whether the organisations' objects are still meeting the eligibility criteria of charitable purposes and their activities are compatible with their objects. According to the tax guide issued by the IRD, the governing instrument of a charity should generally include clauses stating its objects and limiting the application of its funds towards the attainment of its stated objects. The Charitable Donations Section (CDS), led by a Chief Assessor and comprises eight staff, is responsible for processing applications for recognition of tax exemption status and conducting periodic reviews by issuing questionnaires to obtain information from charities concerned (paras. 1.7(a), 2.3(b) and 2.4).

4. *Delays in taking follow-up actions in uncompleted review cases.* Audit analysis of the IRD's computer database revealed that as at September 2016, there were 635 uncompleted review cases, of which 71 (11%) had remained uncompleted over five years. Audit sample checked 17 of the 71 uncompleted review cases and found that in 15 (88%) cases, there were delays on the part of the IRD. For example, in one case, the charity concerned submitted a questionnaire in April 2009 which was left unattended to until September 2016 when the IRD resumed follow-up action. There is a need to closely monitor the uncompleted review cases because if the IRD subsequently finds it necessary to withdraw the recognition of the tax exemption status of a charity, there could be delays in raising assessments on its profits, given the six-year time limit in raising assessments and demanding tax under the IRO (paras. 2.10 to 2.12).

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5. Audit examined 160 review cases and 10 applications for reinstatement of tax exemption status and found limitations in the IRD's follow-up actions on matters of regulatory concern in 6 review/reinstatement cases (para. 2.13):

- (a) ***Directors' remuneration.*** In four cases, the IRD found that the charities concerned had paid remunerations to their directors, which were not allowed in their governing instruments. While remedial actions were taken by the charities concerned, ranging from cessation of payment (without any refund of \$13 million paid) to partial refund (5% of \$276,100 paid in one case and 50% of \$375,000 paid in another case) and full refund (of \$64,200 paid), their tax exemption status was not affected (para. 2.14); and
- (b) ***Expenses not in furtherance of charitable objects.*** In two cases, the IRD identified expenditures which were not in furtherance of the objects of the charities concerned. In both cases, the IRD continued their tax exemption status after remedial actions had been taken, i.e. a full refund (of \$704,500) in one case and an undertaking not to make similar payment (without refund of \$236,000 paid) in another case (para. 2.15).

6. ***Limitations of the IRO provisions on tax exemption status of charities.*** According to the IRD, while the breach of the directors' remuneration clauses may constitute a breach of fiduciary duty, such breach would not alter the charity's objects and hence its charitable status. Based on the legal advice obtained by the IRD in 2003, it was not legally proper to overturn a charity's tax exemption status solely because the charity had not complied with any obligations which were not provided in the IRO. The IRD also informed Audit that the IRD had no authority to demand the charity to refund (in full or in part) of the payment made. However, there is a gap between the public expectation of the IRD's role in administering the tax exemption status of charities and what the IRD can do under the existing provisions of the IRO. In its Report on Charities of 2013, the Law Reform Commission (LRC) considered that the IRD's function of reviewing the accounts of charities to ensure that their income was used solely for charitable purposes was highly important, underpinning the public's confidence in the charity sector. This view was shared by many respondents to the LRC's consultation paper on charities. The LRC has recommended that the IRD should conduct more frequent reviews of the accounts of tax-exempt charities. To address the expectation gap, there is a need to consider reviewing the provisions of the IRO with a view to enabling the

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IRD to effectively perform its role of administering the tax exemption status of charities (paras. 2.16 and 2.17).

7. ***Donations made by charities.*** In two review cases, the IRD's case officers had not requested the charities concerned to provide sufficient explanations on their donation expenditures to support that they were compatible with their objects, although such expenditures (\$1 million in one case and \$0.46 million in another) were the only activities of the charities concerned, using up all/most of their donation income for the years (para. 2.18).

8. ***Dormant charity.*** According to the CDS's Staff Handbook, the tax exemption status of a charity may be withdrawn if it has ceased operation or is dormant. Audit examined seven review cases and found that in three cases, the CDS had taken a long time (over two years) to deal with dormant cases. In one case, the charity had not commenced operation for 12 years since it was recognised as a tax-exempt charity (para. 2.19).

9. ***Need to take timely action upon dissolution of a tax-exempt charity.*** The IRD has made arrangements with the CR whereby companies to be struck off by the CR would be brought to the IRD's attention. Since January 2016, the CDS has used a computer program to conduct matching exercise twice a month to identify tax-exempt charities to be struck off by the CR. This is important for the IRD to: (a) protect revenue in case there are any outstanding tax liabilities of a company to be struck off; (b) make enquiry into whether the assets of such company after dissolution have been disposed of in accordance with the governing instrument requirement; and (c) update the list of tax-exempt charities posted on the IRD's website. Audit notes that the IRD has not made similar notification arrangements with relevant B/Ds for tax-exempt charities which are established under other ordinances (paras. 2.20 and 2.22).

10. ***Room for improvement in conducting desk audits on charitable donation claims.*** Since April 2001, in order to streamline the assessing procedures, the IRD has used a computerised Assess First Audit Later System for screening tax returns for automated assessment and selecting cases for post-assessment desk audit. Based on a sample check of 30 desk audit cases for profits tax and 50 desk audit cases for salaries tax/personal assessment in 2015-16, Audit found that in one profits tax case, the supporting schedule filed by the taxpayer did not show whether the donations

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were made to tax-exempt charities but the assessing officer had allowed tax deduction without seeking clarification from the taxpayer. In two salaries tax cases, the assessing officers had allowed tax deductions although the donation was not made to a recognised tax-exempt charity in one case and the taxpayer's name did not match with the donor's name in another case (paras. 2.26 and 2.28).

Administration of land granted to charities for operating welfare/social services

11. In 1959, the Executive Council (ExCo) noted the statement of government policy on land administration that for land granted by PTG at nil premium for welfare purposes, very stringent powers of control conditions would be included and no distribution of profits would be allowed. In 1981, ExCo endorsed the principle that lessees holding sites granted for social service purposes at nil/concessionary premium should be allowed to redevelop such sites to improve their facilities, provided that: (a) premium should be charged at full market value for the commercial element included in the development; (b) the income derived from the development would be applied to purposes acceptable to the Government; and (c) the project would benefit the public purse by decreasing the need for subventions (paras. 3.2 and 3.3).

12. *Alleged hotel operations on sites granted to charities at nil or concessionary premium.* From 2013 to 2015, there were media reports and public complaints to the Government alleging that 14 sites (under Leases A to N) granted at nil/concessionary premium were partly used to operate hotels. For the 14 sites, in each instance, the grantee (either the organisation or its parent organisation) was a tax-exempt charity. According to the Lands D, three of the sites were granted by virtually unrestricted leases (Leases A, B and E). For the other 11 leases, some specifically permitted the running of hostels and there was no definition under lease of the terms "hostel" and "hotel". Audit reviewed the provisions of the 11 leases (excluding the three unrestricted leases) and the Lands D's follow-up actions on 4 leases (Leases G, H, M and N) and found lessons to be learnt in the lease and planning control of these sites (paras. 3.7, 3.8 and 3.10).

13. *Only one lease stipulated the no-profit-distribution requirement.* According to the 1959 land administration policy (see para. 11 above), stringent powers of control would be included in the conditions and no distribution of profits

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would be allowed for a site granted at nil premium for welfare purposes. While 9 of 11 leases were granted for welfare/social services at nil or concessionary premium after 1959, Audit noted that only one lease (Lease M) stipulated the no-profit-distribution requirement. According to the Lands D: (a) the land administration policy had evolved since 1959 with due regard to 7 cases which were submitted to ExCo for approval; (b) the no-profit-distribution clause was not imposed in these seven cases which served as precedents for subsequent cases; and (c) accordingly, the no-profit-distribution requirement in PTGs for welfare purposes was no longer applicable. However, there were indications that the hostels in the 11 cases were being operated on a commercial basis. Audit noted that the grantees of 9 of the 11 leases had been operating their hostels with hotel licences issued by the Home Affairs Department (HAD). For the remaining two leases, the grantees had placed advertisements offering serviced residence to the public on a monthly rental basis. To ensure that all profits derived from facilities built on sites granted at nil/concessionary premium are applied to purposes acceptable to the Government, there is a need to incorporate the no-profit-distribution requirement in the leases. Moreover, while statements of accounts were important documents to show whether and how the profits derived had been distributed/applied, only 4 of the 11 leases required the submission of accounts. For these four leases, accounts were either not received or not always obtained (paras. 3.11 and 3.12).

14. ***Need to regularly monitor compliance with the lease requirements under Lease M and the related conditions.*** According to Lease M, Grantee M shall use the site for operating a hostel and other social welfare facilities. Since the facilities came into operation in 1991, the hostel was operated by Grantee M's appointed operator and the social welfare services were provided by Grantee M's parent organisation (Charity M). Although the lease condition specifies that there shall be no distribution of profit derived from the facilities, a letter issued by the then Director of Buildings and Lands in June 1989 allowed the profits derived from the facilities to be used towards the improvement and/or extension of all charitable services provided by Charity M. In this connection, the statements of accounts of Grantee M are important documents to show whether such requirements have been complied with. While Lease M provided that the grantee would submit a statement of accounts to the then Director of Buildings and Lands if so required, the Lands D only commenced to obtain such accounts in 2013 (22 years after the hostel came into operation). While some assurance was provided by Charity M's auditor in May 2014 and Grantee M in March 2016, there was insufficient information to show that income derived from the hostel/hotel had been applied towards the purposes specified by the Government for some 25 years during which the hostel was operated by Grantee M's appointed operator under a hotel licence. There is a

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need to regularly monitor compliance with the lease requirements under Lease M and the related conditions (paras. 3.13 and 3.14).

15. ***Monitoring income-generating facilities of a lease and subvention reduction arrangement.*** In 1989, ExCo approved granting of a site to Grantee N for the construction of: (a) a new headquarters including offices, hostel, dormitory and canteen at a nominal premium; and (b) other facilities including a multi-storey vehicle park at full land premium which was to be operated by Grantee N on a commercial basis in line with the 1981 land administration policy (see para. 11 above). The new headquarters and other facilities were completed in 1993 and came into operation in 1994 (paras. 3.15 and 3.16). Audit has found the following areas for improvement:

- (a) ***Management Committee and submission of accounts requirements.*** Lease N required Grantee N to: (i) establish a Management Committee with representatives of the Government to ensure the proper and efficient operation of the income-generating facilities of the headquarters and the vehicle park; and (ii) submit annually a statement of accounts on the operation of the headquarters and the vehicle park to the supporting B/D (the Social Welfare Department (SWD) up to 1999 and the HAB since 2000). While the Management Committee held five meetings from 1993 to 1998, no further meetings had been held thereafter. The SWD obtained the statements of accounts for three years (1995-96 to 1997-98) and there was no record showing that similar statements of accounts had been submitted thereafter (paras. 3.16 and 3.17);

- (b) ***Subvention reduction arrangement.*** The ExCo's approval of the land grant to Grantee N was made on the understanding that there would be reduction and eventual elimination of the annual subvention of Grantee N's activities. The SWD withheld part of the rent and rates subsidy in the sum of \$4.04 million for the five-year period from 1994-95 to 1998-99. In 2000, the HAB (as the supporting B/D) decided to review the subvention reduction issue but had not taken any action until 2010-11 when it froze Grantee N's subvention. After negotiation, the HAB and Grantee N agreed in February 2013 to reduce the subvention to the level in 1993-94 (when the new headquarters came into operation) in three years and to resume adjustment in subvention thereafter. However, the agreed subvention reduction arrangement has yet to give full effect to the ExCo's understanding of eventual elimination of the annual subvention

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to Grantee N. According to the HAB, it will continue its discussion with Grantee N to further reduce the subvention level having regard to Grantee N's financial situation and development needs, and will seek the ExCo's endorsement if it is eventually considered that the ExCo's understanding cannot be achieved (paras. 3.18 to 3.21); and

- (c) *Non-exclusive use of catering facilities.* According to the records of the Food and Environmental Hygiene Department (FEHD), from 1996 to 2015, Grantee N's canteen had been operated as a restaurant under a General Restaurant Licence. In connection with the application for a restaurant licence by Grantee N's new restaurant operator in 2015, the Lands D obtained legal advice and noted that the canteen should be used exclusively by Grantee N's members. The HAB commented that the restaurant was commercial in nature and could not be regarded as "ancillary accommodation and facilities" of Grantee N's headquarters under Lease N. The Planning Department also commented that planning permission for the restaurant was required under the relevant Outline Zoning Plan (OZP) before Grantee N could apply to the Lands D for a waiver to permit the use of the canteen space for restaurant purpose. In December 2016, Grantee N obtained the Town Planning Board's approval to use the canteen for a temporary restaurant for three years. Up to March 2017, the Lands D offered the waiver terms for Grantee N's acceptance. Based on the FEHD's licensing records of two other catering facilities of Grantee N's headquarters and relevant advertisement on a commercial website, there were indications that these facilities were also serving the public. There is a need to review whether the operations of these catering facilities are permitted under Lease N and the relevant OZP (para. 3.22).

16. *Consulting supporting B/Ds on compliance with lease conditions.* According to Lease N, the new headquarters shall include, among others, hostel, canteen and such other ancillary facilities as shall be approved by the SWD. In 1987, Grantee N confirmed to the SWD that all the areas in its headquarters were directly related to its purposes and the then Secretary for District Administration's support for the grant of the headquarters site at nominal premium was also based on the understanding that the facilities were to meet Grantee N's purposes. However, based on the HAD's hotel licence information (see para. 13), there were indications that the hostel had likely been converted to hotel use for the general public. Audit also found similar converted use of the hostels under Leases G and H. In Audit's

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view, for leases with clauses governing the use or operation of the hostels, the Lands D needs to seek confirmation from the relevant B/Ds on whether the current use or operation of the hostels is in line with their policy intent, and take necessary follow-up actions in case of any breach of the lease conditions (para. 3.23).

Filing and disclosure requirements of charities incorporated/established under three ordinances

17. *Filing requirements under the Companies Ordinance.* As at September 2016, there were 6,619 tax-exempt charities incorporated as limited companies, of which 6,523 were companies limited by guarantee. These charities need to comply with the same statutory requirements under the Companies Ordinance as other limited companies. For example, they are required to deliver annual returns to the CR within prescribed time periods. Members of the public can access company information posted on the CR's Cyber Search Centre (paras. 4.2, 4.3 and 4.5).

18. *Non-compliance with filing requirements under the Companies Ordinance.* The timely filing of annual returns by charities which are companies is important for donors to gain access to their financial information so as to make an informed choice when making donations. Audit's analysis of the CR's computer records of the 6,523 charities (which were companies limited by guarantee) revealed that up to November 2016, 1,237 annual returns for the years from 2011 to 2016 (i.e. 6 years) had not been filed. In particular, 21 companies had repeatedly breached the filing requirements, i.e. 12 companies for 5 years and 9 companies for 6 years. For the 2016 annual returns filed by 3,219 charities, 126 were late submissions. The delays were over 90 days in 35 cases (paras. 4.8 to 4.11).

19. *Filing requirements under the Societies Ordinance.* As at September 2016, there were 1,000 registered/exempted charitable societies, of which 811 were tax-exempt charities. These charitable societies are required to comply with the same statutory requirements under the Societies Ordinance as other registered/exempted societies. For example, they shall provide the HKPF with information such as their names, objects and particulars of office-bearers (paras. 4.14 and 4.15).

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20. *Need to keep the registered/exempted society information up-to-date.* The HKPF keeps a list of registered/exempted societies which is posted on its website. According to the HKPF, it endeavours to update the list of registered/exempted societies as soon as possible. The HKPF also carries out regular reviews to identify inactive societies and requests them to furnish proof of their existence and updated particulars. Audit's examination revealed that the HKPF had not: (a) conducted any reviews of inactive societies in 2015 and 2016; (b) requested 53 charitable societies which had not contacted the HKPF for ten years or more at the time of the 2014 review to furnish proof of their existence; and (c) updated the list of registered/exempted societies in respect of 19 societies with society status marked cancelled (paras. 4.16 and 4.17).

21. *Filing requirements of IMCs.* As at September 2016, there were 846 IMCs of which 772 were tax-exempted. These 772 tax-exempt IMCs are required to comply with the same statutory requirements as other IMCs under the Education Ordinance, e.g. preparation of audited accounts. According to the EDB's guidelines, tax-exempt IMCs should submit the annual audited financial statements to the EDB within prescribed periods (paras. 4.22 and 4.23).

22. *Late submission of audited financial statements by some IMC schools.* Audit's analysis of the EDB's computer records for the five school years from 2010/11 to 2014/15 revealed that the percentage of late submission of audited financial statements by IMC schools decreased from 40% for 2010/11 to 36% for 2014/15. However, of the 305 late submissions for 2014/15, 26 (9%) IMC schools had submitted their audited financial statements more than 120 days after the submission due date. Moreover, for school years 2010/11 to 2014/15, 68, 41 and 70 IMC schools had repeatedly submitted their audited financial statements late for 3, 4 and 5 years respectively (paras. 4.27 and 4.30).

Regulation of Chinese temples

23. The CTC was established to carry out duties under the CTO, including the registration of all Chinese temples. According to the HAB, the CTC has not taken any action against the unregistered temples because some provisions of the CTO might be outdated in the present day context. It was not the intention of the CTC to monitor the operation of Chinese temples other than the 25 temples under its

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direct administration and the 20 temples managed by delegated organisations (i.e. the delegated temples) (paras. 5.1 to 5.5).

24. ***Need to renew two expired delegation agreements.*** The delegation agreements for two temples expired in 2006 and 2007 respectively and have not been renewed because one delegated organisation did not accept some new agreement requirements (e.g. submission of audited accounts) and the other has not removed an unauthorised building structure at the temple. In the absence of any delegation agreements in force, donations and other revenues of these temples had been kept and used by the delegated organisations concerned without accountability to the CTC for some ten years (paras. 5.7 and 5.8).

25. ***Need to enhance transparency.*** Both the directly administered temples and the delegated temples receive voluntary donations from the public. However, at present, only the financial information of the 25 directly administered temples and 9 of the 20 delegated temples is accounted for in the financial statements of the Chinese Temples Fund, which are posted on the CTC's website for public inspection. The CTC has neither made available the audited accounts of the remaining 11 delegated temples for public inspection nor required the delegated organisations to do so (para. 5.9).

26. ***Non-compliance with delegation agreement requirements.*** Audit found cases of non-compliance with the audited accounts and administrative report submission requirements by four delegated organisations. Up to January 2017, an organisation had not submitted the audited accounts of its managed temple for the previous 3 years and its administrative reports for the previous 11 years. There were delays in submissions of three other organisations which together managed 15 temples. For example, for the organisation with 5 managed temples, the audited accounts due for submission in March 2014, 2015 and 2016 were not submitted until December 2016 (para. 5.10).

27. ***Review of audited accounts.*** According to the delegation agreement, the income of a delegated temple must be applied in the first instance to the due observance of the customary ceremonies and the maintenance of the temple. Any surplus shall be applied to pay staff salaries and expenses in compliance with the agreement and for the purposes of Chinese charity in Hong Kong. Audit noted in a submitted account a staff messing expenditure of about \$380,000 which was

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disproportionate to the salary expenditure of \$301,000 for the same year but the CTC had not sought clarification from the delegated organisation concerned (para. 5.11).

Way forward

28. According to the 2013 LRC Report, there are deficiencies in the existing regulatory framework of charities, including inconsistent standards or requirements on governance, accounting and reporting by charities, and limited control of charitable fund-raising activities. The LRC made 18 recommendations to improve the transparency and accountability of charities, which included, among others, establishing a clear statutory definition of what constitutes a charitable purpose, requiring all charitable organisations which solicit public donation and/or have sought for tax exemption to be registered, adopting a specifically formulated financial reporting standard for charities in Hong Kong, and ensuring that tax-exempt charities make information about their operations available to the public (paras. 6.2 and 6.3).

29. The HAB has been coordinating inputs from relevant B/Ds with a view to formulating a response to all the recommendations of the LRC Report for the Government's consideration. There is a need to take into account the areas of improvement identified in this Audit Report which are complementary to the LRC's recommendations in considering the way forward. For example, the need to review the provisions of the IRO to enable the IRD to perform effectively its role in administering the tax exemption status of charities should be addressed when taking forward the LRC's recommendation on more frequent review of tax-exempt charities by the IRD (paras. 6.3 and 6.4).

Audit recommendations

30. **Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has *recommended* that:**

- (a) **the Commissioner of Inland Revenue should:**

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- (i) **take measures to enhance the monitoring of the progress of periodic review cases of tax exemption status of charitable organisations (para. 2.29(b));**
 - (ii) **in consultation with the Secretary for Financial Services and the Treasury, consider the need for reviewing the provisions of the IRO with a view to enabling the IRD to effectively perform its role of administering the tax exemption status of charities (para. 2.29(d)(i)); and**
 - (iii) **remind CDS staff to obtain from the charities concerned a breakdown of their donation expenditures to support that they are compatible with their objects (para. 2.29(d)(ii));**
- (b) **the Director of Lands should:**
- (i) **in collaboration with the supporting B/Ds, consider incorporating lease conditions restricting profit distribution and requiring submission of accounts in a PTG or lease modification (including land exchange) granted at nil/concessionary premium for welfare/social services in future; (para. 3.25(a));**
 - (ii) **require Grantee M to provide regularly sufficient information to demonstrate its compliance with the lease requirements and related conditions in the letter of approval of 1989 (see para. 3.13) and, where appropriate, seek the assistance of the SWD in scrutinising the statements of accounts obtained from Grantee M (para. 3.25(c)); and**
 - (iii) **for leases with clauses governing the use or operation of the hostels, seek confirmation from the relevant B/Ds on whether the current use or operation of the hostels is in line with their policy intent, and take necessary follow-up actions in case of any breach of the lease conditions (para. 3.25(d));**

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- (c) **the Secretary for Home Affairs should:**
 - (i) **seek the ExCo's endorsement for any material deviations from its understanding of the implementation of a PTG for operating welfare/social services on land granted at nil/concessionary premium (such as the subvention reduction arrangement in Lease N) (para. 3.27(b)); and**
 - (ii) **for Lease N, in consultation with the Director of Lands and the Director of Planning, review the operations of the western restaurant and lounge to determine whether they are permitted under the lease conditions and the relevant OZP, and take necessary follow-up actions accordingly (para. 3.27(c));**
- (d) **the Registrar of Companies should step up the CR's monitoring of the compliance with the statutory filing requirements by charities which are limited companies and take more timely follow-up actions against cases of repeated breaches of the filing requirements and the long delay cases (para. 4.12);**
- (e) **the Commissioner of Police should step up efforts to identify inactive societies and take timely follow-up actions to ensure that the list of registered/exempted societies posted on the HKPF's website is kept up-to-date (para. 4.19(b));**
- (f) **the Secretary for Education should continue to closely monitor the IMC schools' compliance with the filing requirements of audited financial statements and offer assistance to IMC schools for cases of long delays and/or repeated non-compliance where necessary (para. 4.31(a));**
- (g) **the Secretary for Home Affairs, as the Chairman of the CTC, should:**
 - (i) **for the two temples with expired delegation agreements, expedite action to resolve the long outstanding issues with the two delegated organisations concerned with a view to renewing the delegation agreements as soon as practicable (para. 5.15(a)); and**

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- (ii) **step up monitoring of the delegated organisations' compliance with the terms of the delegation agreements to ensure that audited accounts and administrative reports of the temples are submitted in a timely manner (para. 5.15(c)); and**

- (h) **the Secretary for Home Affairs should take into account the areas for improvement identified in this Audit Report in coordinating inputs from relevant B/Ds for formulating a response to the LRC's recommendations for the Government's consideration (para. 6.6).**

Response from the Government

31. The Government generally agrees with the audit recommendations.