

# Hong Kong Tax Alert

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## **2022/23 profits tax filing season will soon commence**

***On 3 April 2023, the Inland Revenue Department (IRD) will issue bulk profits tax returns to taxpayers for the year of assessment 2022/23.***

***This alert draws your attention to the filing due dates for the 2022/23 profits tax returns and the requirement to notify the IRD of chargeability to tax where applicable. In addition, effective from 1 April 2023, (i) the voluntary electronic filing of profits tax returns will no longer be confined to certain small corporations and businesses but apply to all kinds of taxpayers. Service providers including tax representatives engaged to sign and file a profits tax return either in paper form or electronically for and on behalf of their clients must obtain a confirmation of the same from clients; (ii) even if a tax return is filed in paper form, the supplementary forms and other forms that are required to accompany the return must be filed electronically; and (iii) small corporations and businesses will no longer be exempted from furnishing financial statements and tax computations when filing their tax returns.***

***Should you have any questions regarding the filing of your tax returns, the supplementary forms and other forms, please contact your tax executives.***

## 2022/23 tax filing deadlines

The tax filing season for the fiscal year ending 31 March 2023 (i.e., year of assessment 2022/23) will commence with the IRD's bulk issuance of the relevant profits tax returns (i.e., Form BIR 51 for corporations or Form BIR 52 for entities other than corporations) on 3 April 2023.

Returns are normally due for filing within one month of their date of issue. However, the IRD has for many years operated a block extension scheme whereby the filing deadline can be extended in instances where a taxpayer is professionally represented. Under the 2022/23 block extension scheme, the filing dates for the bulk returns issued on 3 April 2023 can be extended as follows:

For taxpayers with accounting dates falling between	Extended due date
1 April 2022 - 30 November 2022 (Accounting date code "N")	3 May 2023 (Wednesday)
1 December 2022 - 31 December 2022 (Accounting date code "D")	15 August 2023 (Tuesday)
1 January 2023 - 31 March 2023 - with taxable profits for the year (Accounting date code "M")	15 November 2023 (Wednesday)
1 January 2023 - 31 March 2023 - with tax losses for the year (Accounting date code "M")	31 January 2024 (Wednesday)

### Further extension of one month for using voluntary electronic filing for 2022/23

To promote voluntary electronic filing, the IRD will, on receiving application, grant a further extension of one month if professionally represented taxpayers are to file the 2022/23 tax returns through the internet, including the semi-electronic filing mode referred to below. The additional extension of one month will be counted from the date immediately after the extended due date indicated above or the normal due date of the return, whichever is the later. It should however be noted that the extended due date of 31 January 2024 indicated above for filing M-code cases with tax losses would not be further extended, even if electronic filing is adopted for such cases.

### Notification of chargeability where no tax return has been issued

Taxpayers who are not issued with a tax return but nonetheless have profits chargeable to tax for any year of assessment (before the set-off of losses brought forward) are required to notify the IRD of their chargeability.

The notification is required to be in writing, addressed to the Commissioner of Inland Revenue (CIR) and submitted within four months after the end of the basis period for the year of assessment concerned. It should be noted that a taxpayer's basis period for a year of assessment depends on their accounting year-end date. As a result, the time limit for taxpayers to inform the IRD of chargeability will vary. For example, Company A (with an accounting year ended on 31 December 2022) and Company B (with an accounting year ended on 31 March 2023) will be required to inform the IRD of their chargeability for the year of assessment 2022/23 on or before 30 April 2023 and 31 July 2023 respectively (i.e., within four months of their respective year-end dates).

Failure to inform the IRD of chargeability within the stipulated time frame, without reasonable excuse, will render a taxpayer liable to a fixed fine of up to HK\$10,000 and potentially a penalty of up to three times the tax involved for each offence.

However, there is no need for a taxpayer to inform the IRD of chargeability if the taxpayer has been filing tax returns annually and could reasonably expect that, in the normal course of events, the IRD would issue a return in the current year. Conversely, if a chargeable taxpayer has previously been advised by the IRD that a profits tax return will no longer be issued on an annual basis, or the taxpayer has recently commenced business, the CIR must be notified of chargeability within the stipulated period.

## **Supplementary forms and other forms to the returns must be filed electronically**

Regardless of whether a tax return is filed in paper form or electronically, the supplementary forms (i.e., S1 to S18) and other forms (i.e., IR 1478 and IR 1479) that need to accompany the return (collectively referred to as Required Forms) are required to be filed electronically.

If a taxpayer needs to file any Required Forms, they must download the relevant form from the IRD website ([www.ird.gov.hk/e\\_pfr](http://www.ird.gov.hk/e_pfr)) and fill in the relevant form electronically. After completion, the taxpayer must export the filled form to XML file and upload the XML file via the eTAX services (the eTAX) provided at the GovHK website (<https://www.gov.hk/en/business/taxes/profittax/>) for submission.

Where a tax return is filed in paper form, the taxpayer is also required to print a paper Control List (IR 1477) containing details of the XML files uploaded via the eTAX and the QR code generated by the eTAX for submission together with the return in paper form. The paper Control List must be signed by the same person signing the tax return.

### **New items added in the paper profits tax returns**

The following new items have been added in the paper profits tax returns for the year of assessment 2022/23. If applicable, taxpayers are required to provide the required information and data:

- a) BIR 51 (Item 3.4.2): To cover taxpayers carrying on business as a qualifying ship agent, a qualifying ship manager or a qualifying ship broker chargeable to tax at a concessionary tax rate under section 14ZD/14ZM/14ZV of the Inland Revenue Ordinance. Such taxpayers are also required to complete supplementary forms S16, S17 or S18 as appropriate and file the same electronically.
- b) BIR 51 (Items 7.10 to 7.10.2): To indicate whether the taxpayer is an insurance corporation adopting the risk-based capital (RBC) regime to determine capital requirements during the basis period; state the amount of the one-off adjustment arising from the adoption of the RBC regime; and (subject to the enactment and operation of the relevant legislation) indicate the election to treat the one-off tax adjustment arising from the adoption of the RBC regime as income or loss by five equal amounts for the relevant year of assessment and the next succeeding four years of assessment.
- c) BIR 51 (Items 7.11 and 7.11.1) and BIR 52 (Items 7.7 and 7.7.1): To indicate whether the taxpayer is an eligible family-owned investment holding vehicle managed by an eligible single family office in Hong Kong; and (subject to the enactment and operation of the relevant legislation) indicate the election to have the preferential treatment applied to the related profits. If so, the taxpayer is required to complete Form IR 1479 and submit the same electronically.
- d) BIR 51 (Item 7.12) and BIR 52 (Item 7.8): To indicate whether the taxpayer is a family-owned special purpose entity.
- e) BIR 51 (Item 7.13) and BIR 52 (Item 7.9): To indicate whether the taxpayer derived and/or received any specified foreign-sourced income during the basis period. If so, the taxpayer is also required to complete Form IR 1478 and submit the same electronically.
- f) BIR 51 (Items 9.1 to 9.8) and BIR 52 (Items 9.1 to 9.6): To indicate the relevant supplementary forms uploaded electronically.

## All kinds of taxpayers can now voluntarily file their tax returns electronically

Effective from 1 April 2023, with the eTAX enhanced, the voluntary e-filing of profits tax returns will no longer be confined to certain small corporations or businesses but apply to all kinds of taxpayers. As part of the launching of this new initiative, the following new e-services and e-filing modes will be provided:

- a) Supporting documents can be e-filed to the IRD through the eTAX. All corporations and businesses are encouraged to e-file their profits tax returns for the year of assessment 2022/23. They only need to complete simplified e-returns (BIR 51(ie)(ic)/BIR 52(ie)(ic)) online, upload the completed Required Forms in XML format and the supporting documents prepared in Inline eXtensible Business Reporting Language (iXBRL) format, and e-sign the return through the eTAX. Furthermore, to facilitate corporations and businesses in preparing the required iXBRL data files, the IRD will provide the IRD iXBRL Data Preparation Tools (for converting financial statements and tax computations into iXBRL data files) which can be downloaded from the IRD website ([www.ird.gov.hk/ixrl](http://www.ird.gov.hk/ixrl)) free of charge.

- b) Apart from the full electronic filing mode, semi-electronic filing mode is also available. That is, profits tax returns can be furnished in a mix of paper and electronic form. As an alternative to signing the e-return online, the semi-electronic filing mode allows a taxpayer to submit all required data in electronic form through the eTAX and print a simplified e-return generated by the eTAX for signature and submission in paper form.

Different modes of return filing and the corresponding data formats of Required Forms and supporting documents are summarized in the table below:

Filing mode	Profits tax return (BIR 51 or BIR 52)	Required Forms	Supporting documents (i.e., financial statements and tax computations)
Paper	Paper	XML	Paper
Electronic	Electronic	XML	iXBRL
Semi-electronic	Paper	XML	iXBRL

## **Small corporations and businesses no longer exempted from furnishing financial statements and tax computations when filing tax returns**

It should be noted that effective from 1 April 2023, small corporations and businesses with gross income not exceeding HK\$2,000,000 will no longer enjoy the exemption from furnishing financial statements and tax computations when filing their tax returns. This is regardless of whether the tax returns are filed in paper form or electronically.

This withdrawal of the exemption is partly because without the relevant information readily on file may render the IRD not being able to perform the information exchange on request from our treaty partners within the stipulated time.

## **Confirmation for engagement of service provider to “furnish returns”**

Service providers engaged by a taxpayer to furnish a tax return for or on their behalf must obtain a confirmation from the taxpayer stating that the information contained in the return is correct and complete to the best of the taxpayer’s knowledge and belief.

Form IR 1476 for the “Confirmation for Engagement of Service Provider to Furnish Return”, which must be submitted together with the return, can be downloaded from the IRD website.

It should be noted that the act of “furnishing returns” only refers to the signing of a tax return by a service provider for and on behalf of their clients for submission.

As such, a person who is engaged by a taxpayer for undertaking only preparatory work such as preparing profits tax computations and other supporting documents, filling in the return form is not a service provider if the person does not also sign the return for and on behalf of their clients.

Clients who have any questions regarding the filing of their tax returns, the supplementary forms and other forms, should contact their tax executives.



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