



Compliance updates for tax-exempt charitable organizations

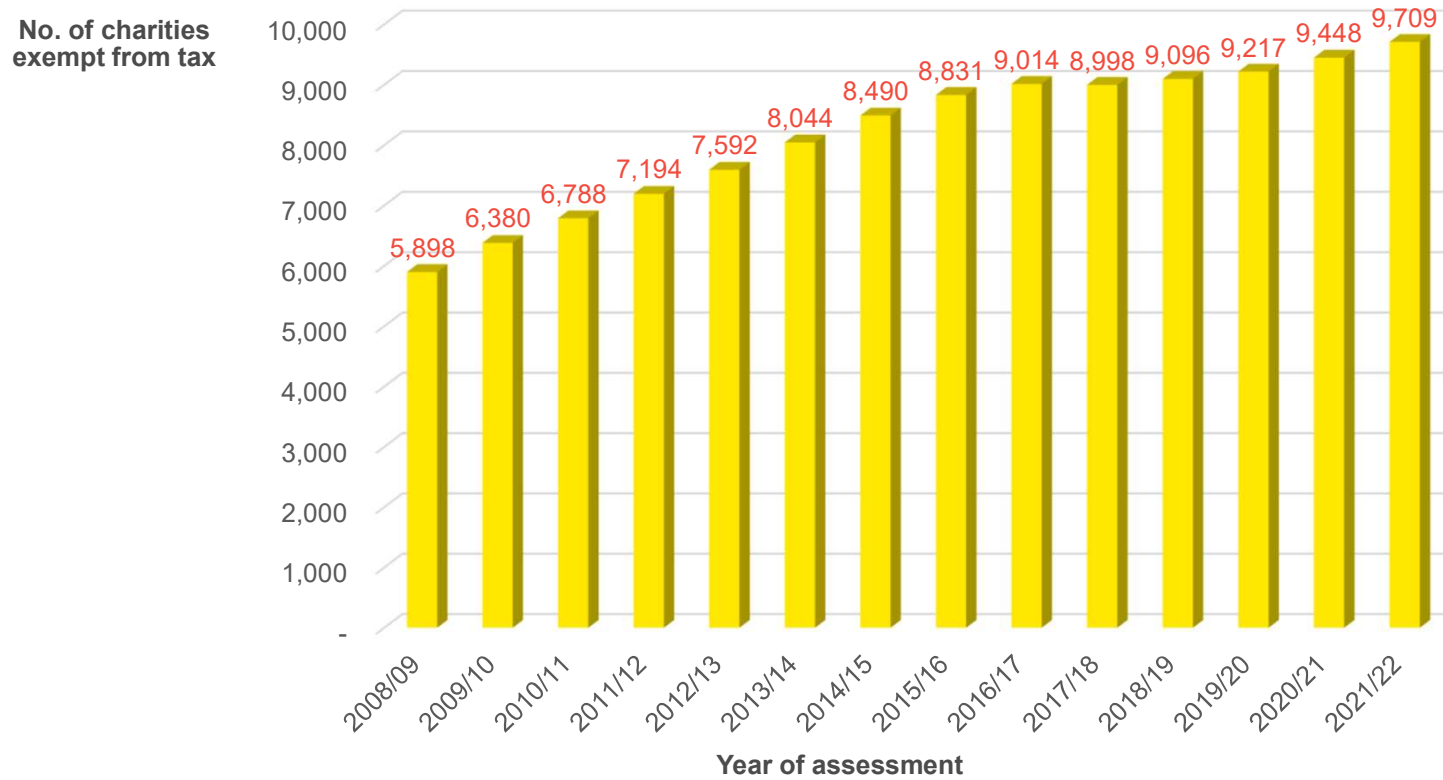
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29 November 2023

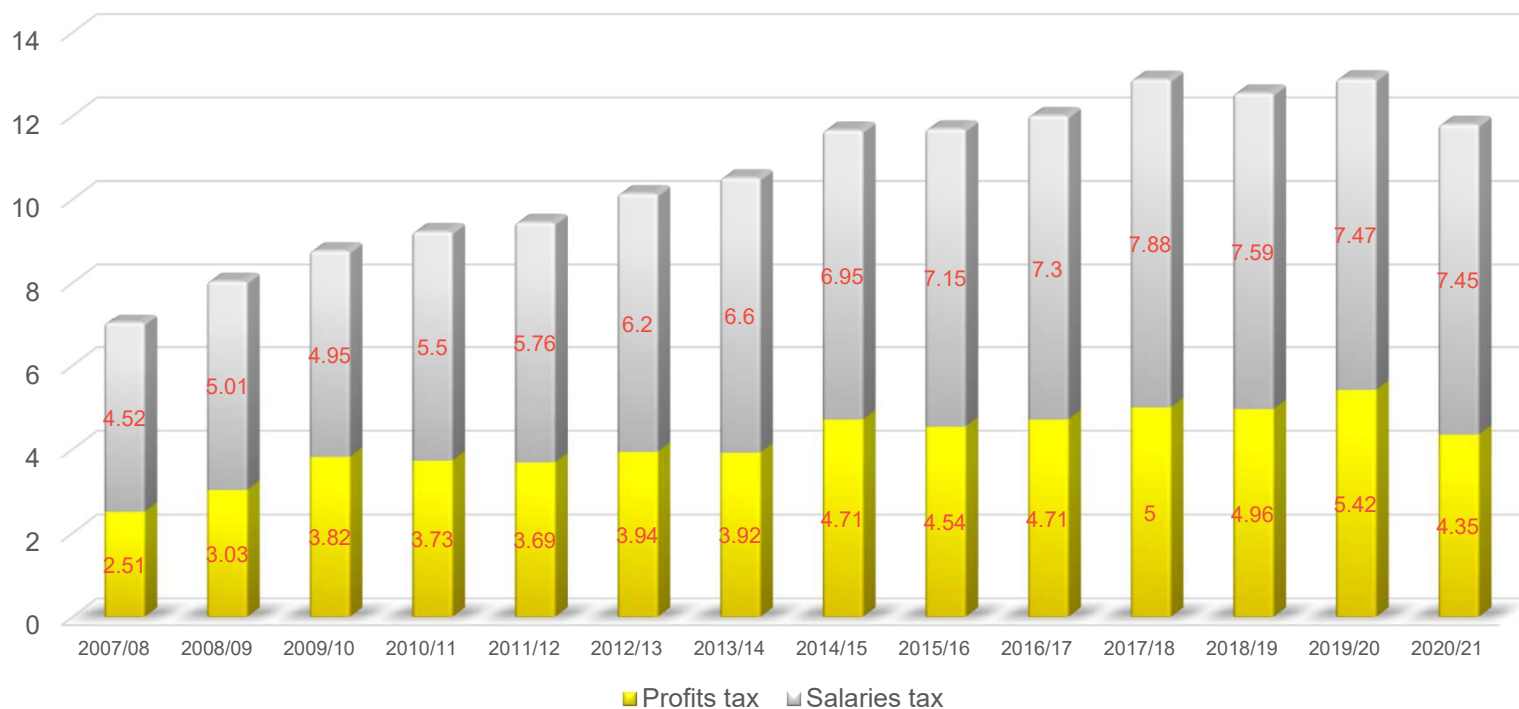
Number of charities exempt from tax



Source: Annual Report of the Inland Revenue Department

Approved charitable donations allowed

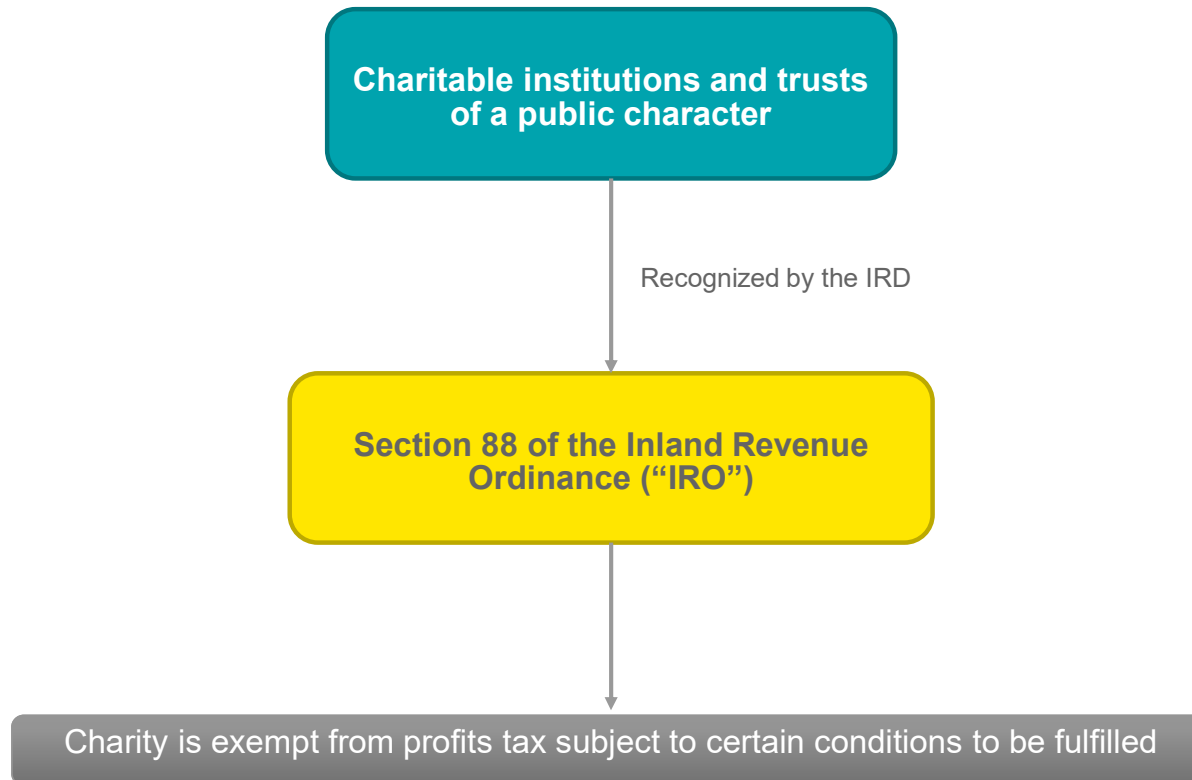
Amount of approved charitable donations allowed (HK\$ 'billion)



Year of assessment

Source: Annual Report of the Inland Revenue Department

What is a charity from IRD's point of view?



Meaning of charity

- ▶ Charity is not equivalent to voluntary or so-called non-profits-making organization
- ▶ Charity must be exclusively established for charitable purposes which are charitable in strict legal sense.

The relief of poverty



The advancement of education



The advancement of religion



Other purposes of a charitable nature
beneficial to the community not falling
under any of the preceding heads



Public Benefit

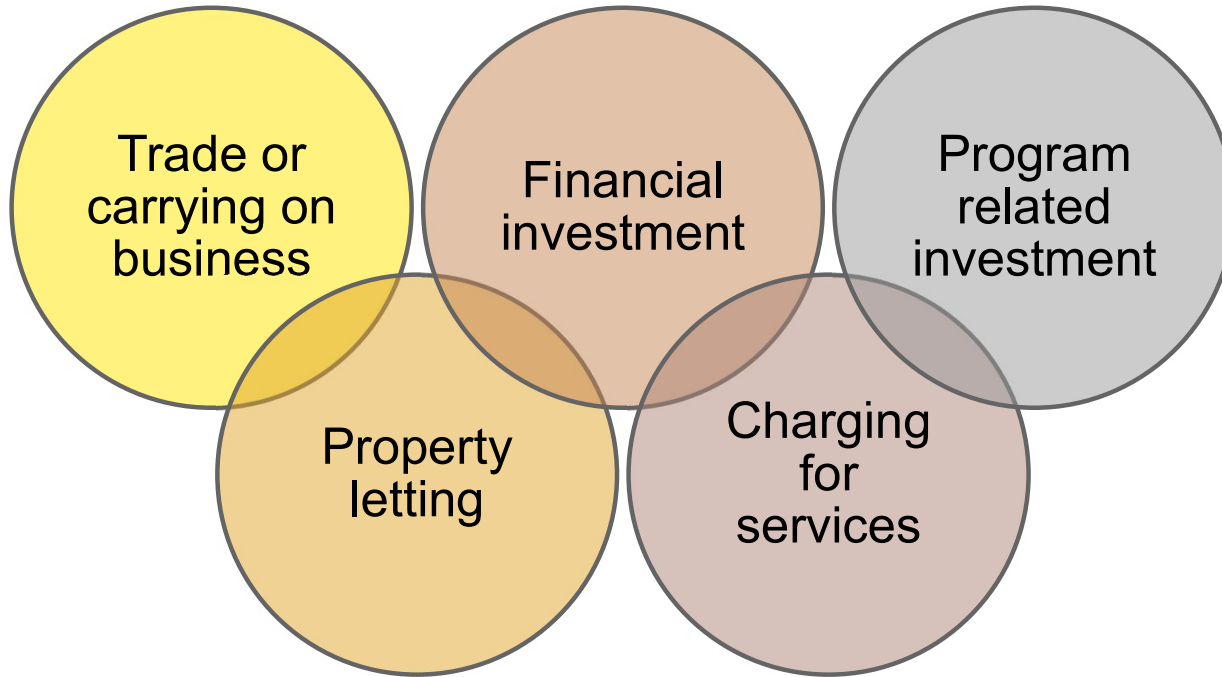
Public

- Public in general
- To a sufficient section of the public

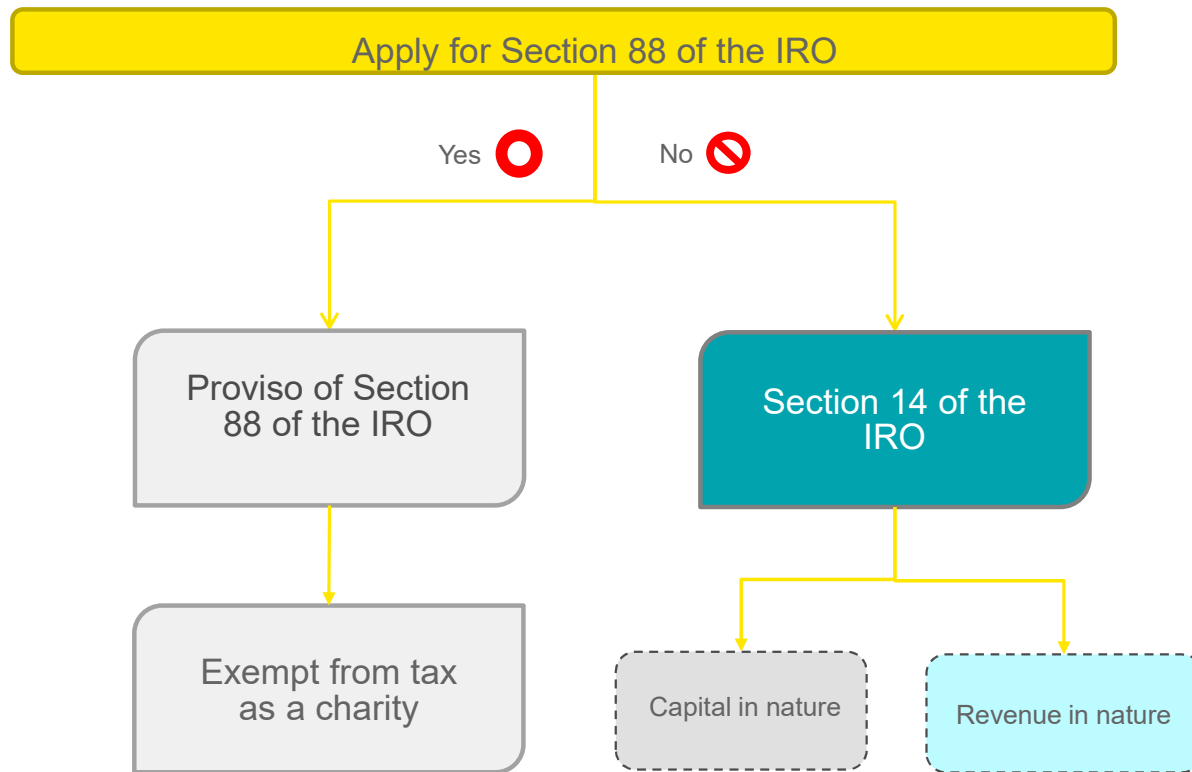
Benefit

- Clear benefit
- Relevant to the purpose
- Balance against any detriment or harm

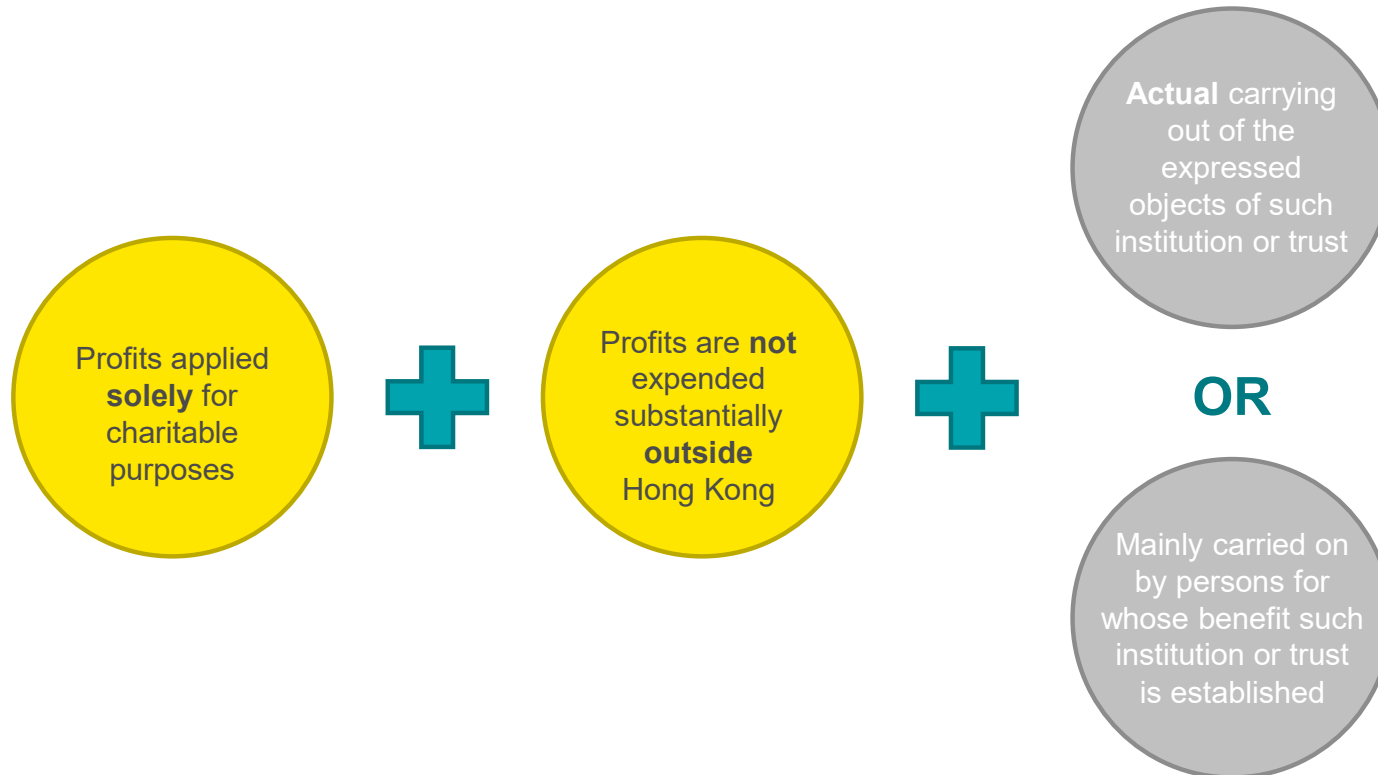
What if...



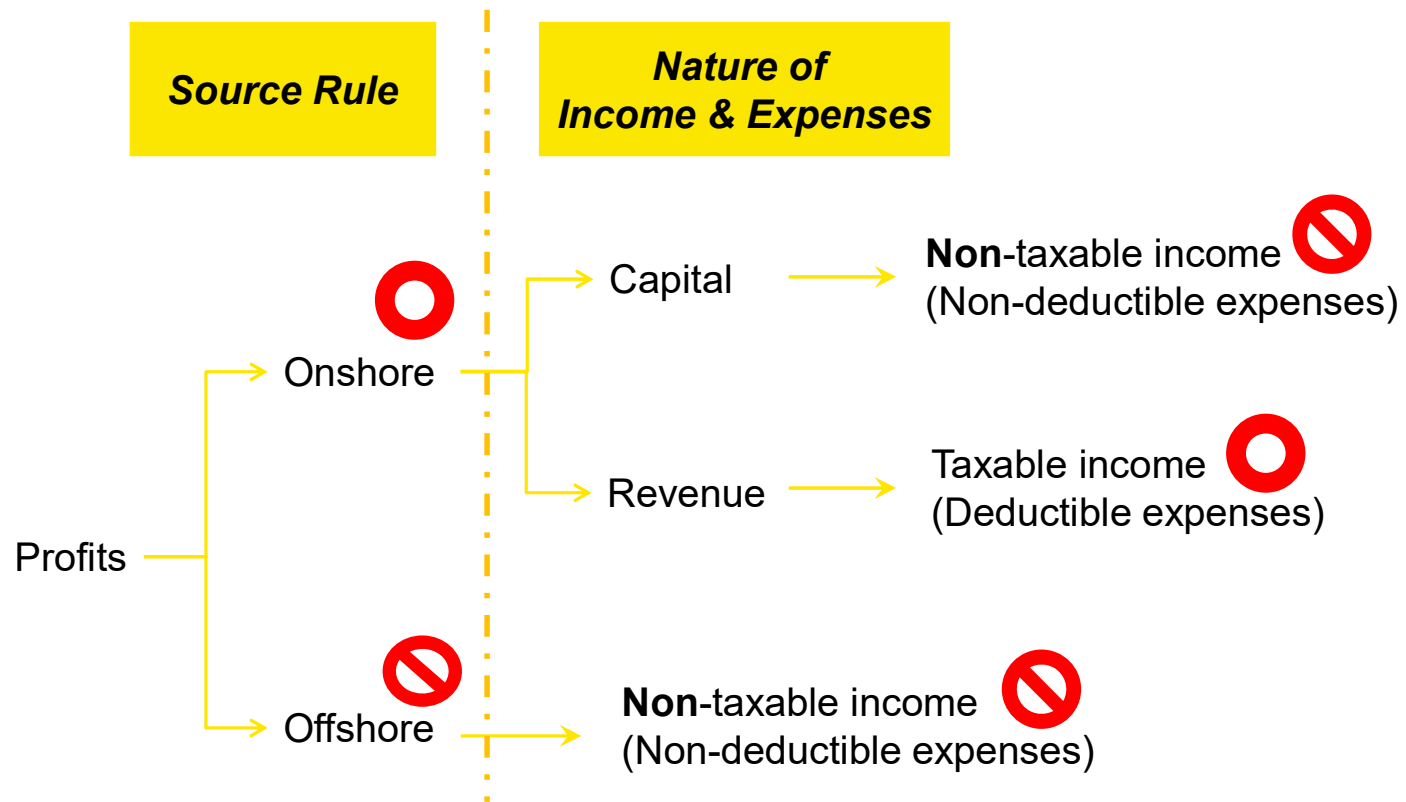
Determination process



Proviso of Section 88 of the Inland Revenue Ordinance



Determination of assessable profits – an overview



Capital vs Revenue

Criteria	Capital in nature	Revenue in nature
Subject matter of the transactions (nature, quantity and intention)	For internal use Smaller quantity	For sales Larger quantity
Number of the transactions	Smaller	Larger
Frequency of the transactions	Less frequent	More frequent
Length of the ownership	Held longer period	Turn over quickly
Supplementary work done on the items sold	Less value added	More value added
Source of finance	Tends to use own assets	Tends to use loan
Methods of acquisition	Not actively acquire (gifts etc.)	Acquire in market

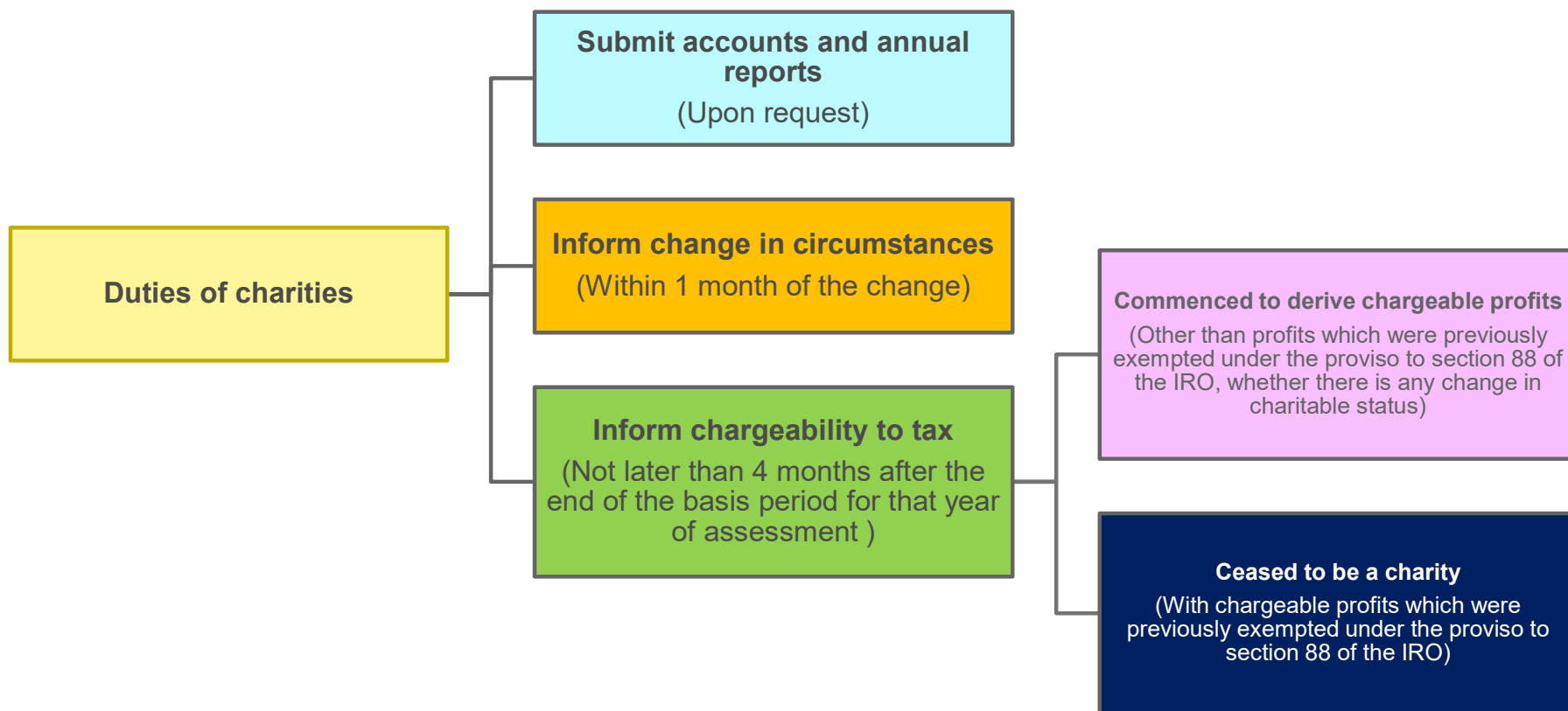
Stamp Duty Ordinance (Cap 117)

- ▶ Section 44 of the Stamp Duty Ordinance provides that stamp duty shall not be chargeable on any conveyance of immovable property where the beneficial interest therein passes by way of gift from the person entitled to that interest to charitable institutions. The instrument in question must be submitted to the Collector of Stamp Revenue for adjudication.
- ▶ It is not treated as duly stamped unless it has been stamped with a particular stamp or by way of a stamp certificate denoting either that it is not chargeable with stamp duty or that it is duly stamped.

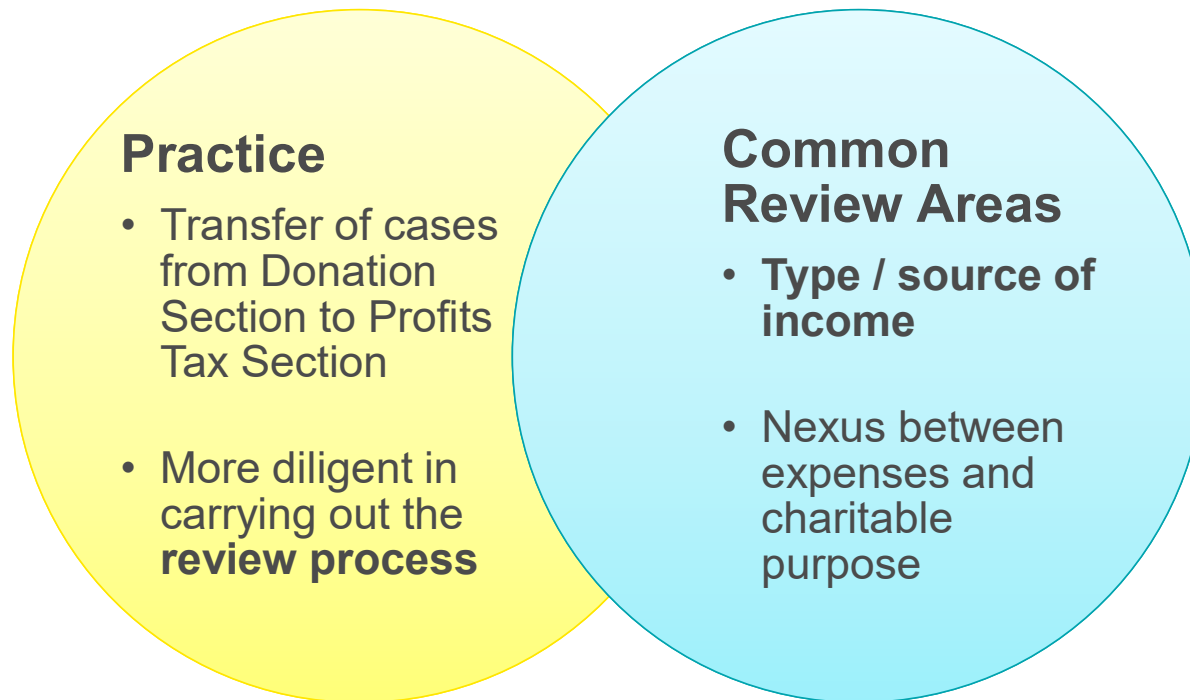
Procedures for tax-exempt entity application

Letter to IRD	
<p>Organization has been established:</p> <ul style="list-style-type: none">(i) a copy of the relevant certificate of registration;(ii) a certified true copy of the instrument and rules governing its activities;(iii) a list of any activities which have been carried out in the past 12 months and a list of activities planned for the next 12 months;(iv) a list of members of governing body (e.g. directors, trustees, etc.); and(v) a copy of its accounts for the last financial year.	<p>Organization <u>not</u> yet established:</p> <ul style="list-style-type: none">(i) a draft of the instrument and rules governing its activities;(ii) a list of the activities planned for the next 12 months from the date of establishment or date of application, where appropriate; and(iii) a list of founder members / settlers (for trusts only) and proposed members of governing body (e.g. directors, trustees, etc.).
Respond within 4 months	

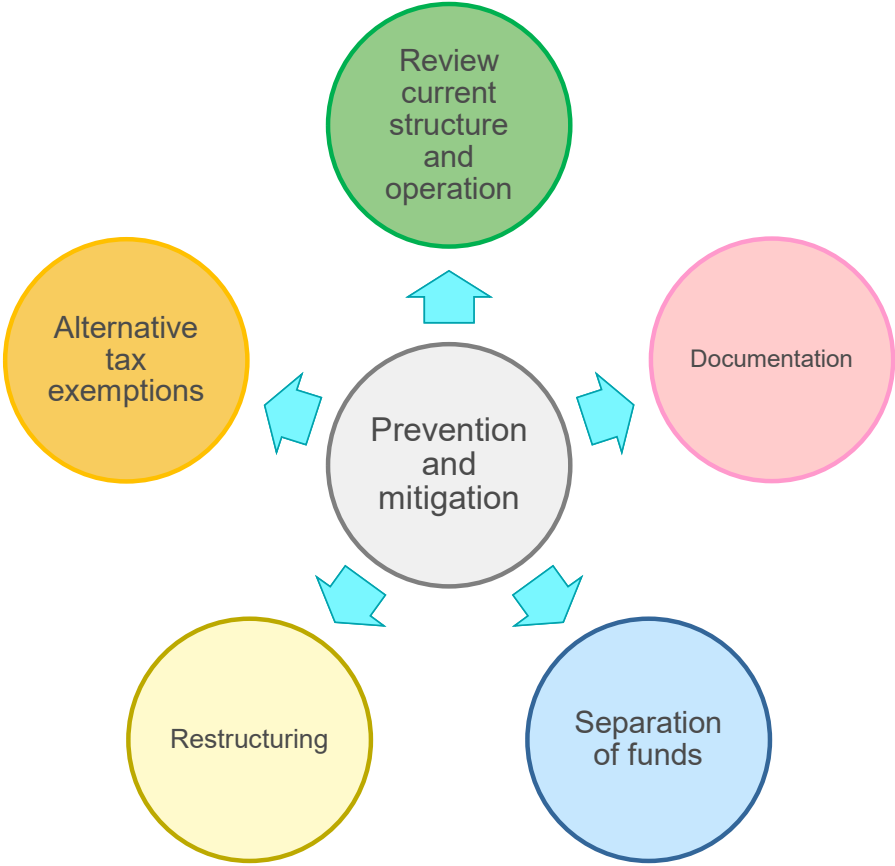
Review of tax exemption and tax obligation



Our Observations



Mitigation of tax risks



Questions and answers

