

**A brief account of Chapter 1 of Report 68
“Government’s support and monitoring of charities”
by the Director of Audit
at the Public Hearing of the Public Accounts Committee
of the Legislative Council on Saturday, 6 May 2017**

Mr. Chairman,

Thank you for inviting me here to give a brief account of Chapter 1 of Report No. 68 of the Director of Audit, entitled “Government’s support and monitoring of charities”.

This Audit Report comprises six parts.

Part 1 of the Report, namely "Introduction", describes the background of the audit.

Charities make an important contribution to Hong Kong. Therefore, the Government has provided various support to charities over the years, including: (1) tax deduction for donations made to the nearly 9,000 tax-exempt charities, totalling \$11.8 billion for the year of assessment 2014-15; (2) granting land at a concessionary premium to charitable institutions; and (3) provision of recurrent subventions to charitable institutions for providing services in the education, health and social welfare sectors. However, there is no overall statutory scheme for the registration and regulation of charities in Hong Kong. Hence, they are subject to the monitoring of different government bureaux/departments (B/Ds), based on their legal forms and whether they have sought government support.

Part 2 of the Report mainly examines the Inland Revenue Department (IRD)’s administration of tax exemption of charities and claims for tax deduction of approved charitable donations.

The Audit Commission (Audit)’s examination revealed that due to limitations in the Inland Revenue Ordinance (IRO) provisions, the IRD had not been able to take appropriate regulatory actions against a charity found with expenses incompatible with its charitable objects or contravening its governing instruments during a periodic review of tax exemption status. However, in its Report on

Charities of 2013, the Law Reform Commission (LRC) recommended that the IRD should conduct more frequent reviews of tax-exempt charities for more effective monitoring purposes. To address the expectation gap, we have recommended that consideration should be given to review the IRO with a view to enabling the IRD to effectively perform its role of administering the tax exemption status of charities.

Part 3 examines the Government's administration of land granted to charities for operating welfare or social services.

Audit examination revealed that 11 sites granted to charities or a charity's subsidiary at nil or concessionary premium originally intended for operating welfare/social services were currently used to operate hotels or serviced residences on a commercial basis. However, only one of these 11 leases stipulated the no-profit-distribution requirement. We also found room for improvement in monitoring the compliance with lease conditions. For example, in four leases with conditions requiring the submission of accounts, the accounts were not always obtained. In one of these four leases, the Lands Department (Lands D) had not required the grantee to provide sufficient detailed information for a number of years to show that all profits derived from operating hotel facilities had been applied to purposes acceptable to the Government. In another lease, while the income-generating facilities had come into operation since 1993-94, the proposed arrangement to the Executive Council for the eventual elimination of annual subvention to the grantee was not yet fully implemented. We have recommended that the Lands D and the supporting B/Ds should consider incorporating appropriate conditions in leases granted at concessionary premium for operating welfare/social services in future, and strengthen the monitoring of lease enforcement action.

Part 4 of the Report examines the compliance with filing and disclosure requirements by tax-exempt charities which are incorporated or established as a limited company under the Companies Ordinance, a society under the Societies Ordinance, or an incorporated management committee of a school under the Education Ordinance.

Audit examination revealed cases of late or default on submission of documents by certain charities. We consider that timely filing of information of charities is important for donors to make an informed choice when making donations. In this connection, we have recommended that the Companies Registry, the Hong Kong Police Force and the Education Bureau should step up their monitoring of the

compliance with the filing and disclosure requirements.

Part 5 of the Report examines issues relating to the regulation of Chinese temples under the Chinese Temples Ordinance (CTO).

It is the Government's policy to respect the autonomy of religious organisations. Since the Government considers that the CTO, which was enacted in 1928, might be outdated in the present day context, only 45 temples, representing 8% of the Chinese temples in Hong Kong, were under the direct administration of the Chinese Temples Committee or managed by organisations under its delegated authority. We found inadequacies in delegated organisations' submission of temple accounts and administrative reports, and have recommended that the Home Affairs Bureau (HAB) should step up the monitoring of the delegated organisations' compliance with the terms of the delegation agreements.

Part 6 of the Report examines the way forward on the monitoring of charities with reference to the recommendations of the LRC Report on Charities published in 2013.

We noted that the HAB had been coordinating inputs from relevant B/Ds with a view to formulating a response to the recommendations of the LRC Report. We have recommended that the HAB and relevant B/Ds should take into account the views and recommendations set out in this Audit Report in formulating the response.

Our views and recommendations were generally agreed by relevant B/Ds. I would like to take this opportunity to acknowledge with gratitude their full cooperation, assistance and positive response during the course of the audit review.