

## NOTES AND INSTRUCTIONS – SUPPLEMENTARY FORM (S20)

1. Section 5 of Schedule 16E to the Inland Revenue Ordinance (Cap. 112) (“IRO”) provides the meaning of “family-owned investment holding vehicle” (“FIHV”). An entity, whether established or created in or outside Hong Kong, is an FIHV for a year of assessment if:
  - (a) except where a charitable institution or trust of a public character that is exempt from tax under section 88 of the IRO (“charitable entity”) is involved (Note 3), one or more than one member of a family (Note 4) has at least 95%, in aggregate, of the beneficial interest (whether direct or indirect) in the entity at all times during the basis period for the year of assessment; and
  - (b) the entity is not a business undertaking for general commercial or industrial purposes mentioned in section 20AM(6) of the IRO.
2. The basis period must be the same as that stated in the relevant Profits Tax Return.
3. A charitable entity may have up to 25% of the beneficial interest (whether direct or indirect) in an FIHV and/or an “eligible single family office” (“ESF Office”). This is subject to the conditions that:
  - (a) at least 75%, in aggregate, of the beneficial interest (whether direct or indirect) of the FIHV and/or ESF Office must be held by family members; and
  - (b) the percentage of the beneficial interest (whether direct or indirect) that an unrelated person has in the FIHV and/or ESF Office, or if there is more than one unrelated person, the total percentage of such beneficial interest, does not exceed 5%.

“Unrelated person” in relation to a particular family means an entity in which no member of the family has a beneficial interest (whether direct or indirect); or a natural person who is not a member of the family. An unrelated person does not include a charitable entity.
4. Section 4 of Schedule 16E to the IRO provides the meaning of “family” and “member” of a family. Irrespective of whether the filing of Profits Tax Return is in paper mode or through electronic or semi-electronic filing means, you are required to submit a hard copy of a statutory declaration in paper form to confirm that a person is a member of the family concerned. A sample statutory declaration is available for download at the Department’s web site.
5. Section 2 of Schedule 16E to the IRO provides the meaning of “ESF Office” of a family. A family office means a private company which is normally managed or controlled in Hong Kong and one which provides services to specified persons (Note 6) of a family. A family office is an ESF Office of a family for a year of assessment if:
  - (a) except where a charitable entity (Note 3) is involved, one or more than one member of the family has at least 95%, in aggregate, of the beneficial interest (whether direct or indirect) in the family office at all times during the basis period for the year of assessment;
  - (b) the family office satisfies the safe harbour rule in relation to the family for the year of assessment;
  - (c) the family office provides services to specified persons (Note 6) of the family during the basis period for the year of assessment; and
  - (d) the fees for the provision of those services mentioned in paragraph 5(c) are chargeable to profits tax under section 14 of the IRO for the same year.
6. “Specified person”, in relation to a family, means:
  - (a) an FIHV that is related to the family;
  - (b) a family-owned special purpose entity (“FSPE”) (Note 7) in which an FIHV mentioned in paragraph 6(a) has a beneficial interest (whether direct or indirect);
  - (c) an interposed FSPE of an FIHV mentioned in paragraph 6(a); and
  - (d) a member of the family.
7. An entity, whether established or created in or outside Hong Kong, is an FSPE if:
  - (a) an FIHV has a beneficial interest (whether direct or indirect) in the entity;
  - (b) the entity is established or created (however described) solely:
    - (i) for holding (whether directly or indirectly) and administering one or more investee private companies;
    - (ii) for holding (whether directly or indirectly) and administering any asset that falls within a class specified in Schedule 16C to the IRO (“Schedule 16C assets”); or
    - (iii) for the purposes mentioned in paragraphs 7(b)(i) and (ii);
  - (c) the entity does not carry on any trade or activity (including executing a legal document) except for either or both of the purposes mentioned in paragraphs 7(b)(i) and (ii); and
  - (d) the entity is neither an FIHV nor an investee private company.

8. An eligible FIHV will enjoy the profits tax concession in respect of the assessable profits for the basis period earned from transactions in Schedule 16C assets (“qualifying transactions”) and transactions incidental to the carrying out of the qualifying transactions (“incidental transactions”) subject to the 5% threshold (Note 9) provided that certain conditions are met at all times during the basis period for the year of assessment. The conditions are:
- (a) the FIHV is normally managed or controlled in Hong Kong; and
  - (b) the qualifying transactions of the FIHV:
    - (i) are carried out in Hong Kong by or through an ESF Office of the family that manages the FIHV; or
    - (ii) are arranged in Hong Kong by the ESF Office.

If there was a loss derived from the qualifying transactions, please insert “0” for section 4.1.

9. The FIHV’s trading receipts from incidental transactions must not exceed 5% of the total of the FIHV’s trading receipts from qualifying transactions and incidental transactions in the basis period for the year of assessment. If the 5% threshold is exceeded, the whole of the FIHV’s trading receipts from the incidental transactions (i.e. not just the amount in excess of the 5% threshold) will be chargeable to profits tax at full rate. Profits derived from the qualifying transactions, however, will remain chargeable at the concessionary tax rate.

If there was a loss derived from the incidental transactions, please insert “0” for section 4.2.

If the 5% threshold was exceeded, please fill in “0” in section 4.2 and the whole amount of the FIHV’s trading receipts from the incidental transactions in section 4.4.

10. Section 4.3 is the sum of sections 4.1 and 4.2.
11. The profits tax concession does not apply to you for the basis period for the year of assessment unless the subject ESF Office complies with the Specified Net Asset Value (“NAV”) Rule (Note 12) and the substantial activities requirements (Note 13) are met. A “subject ESF Office”, in relation to an FIHV, means a family office:
- (a) that is an ESF Office of the family to which the FIHV is related; and
  - (b) that, on the last day of the basis period, manages the FIHV.

12. The subject ESF Office will be treated as having complied with the Specified NAV Rule in relation to you for the basis period for the year of assessment (“the subject year”) if the aggregate of the amount of the NAV (“Aggregate NAV”) of the Schedule 16C assets managed by the subject ESF Office for the relevant FIHV (or multiple relevant FIHVs) of a family [for you, as the relevant FIHV, or multiple relevant FIHVs of a relevant family (if applicable)], as at the end of the basis period of the relevant FIHV for the subject year, is not less than HK\$240,000,000 (or its equivalent in a foreign currency). “Relevant FIHV” refers to you as well as any other FIHV that is related to the family to which you are related and an election for the profits tax concession has been made by that other FIHV under Schedule 16E to the IRO.

If the Aggregate NAV for the subject year is less than HK\$240,000,000, but the Aggregate NAV as at the end of the basis period of the relevant FIHV for the year of assessment immediately preceding the subject year (“1st preceding year”) or for the year of assessment immediately preceding the 1st preceding year is not less than HK\$240,000,000, the subject ESF Office will also be treated as having complied with the Specified NAV Rule.

In calculating the NAV, the Schedule 16C assets held by an FSPE of the FIHV (to the extent of the percentage of the FIHV’s beneficial interest, whether direct or indirect, in the FSPE) will be included.

13. If the investment activities ticked in section 6.1 were carried out in Hong Kong by the subject ESF Office’s employees, appropriate boxes under section 6.2(a) should be ticked to provide details of full-time employees in Hong Kong (Note 15). If there was no qualified employee, please insert “0” for section 6.2(a). The total amount of operating expenditure incurred in Hong Kong for carrying out the relevant investment activities (Note 17) should be provided in section 6.2(b). The amount of operating expenditure should include remunerations of the relevant employees in connection with the relevant investment activities. If there was no operating expenditure, please insert “0” for section 6.2(b).
14. Where the subject ESF Office mentioned in section 2.3 manages more than one FIHV during the basis period, please fill in the total number of the relevant full-time employees and the total amount of the relevant operating expenditure of the subject ESF Office in managing all of the FIHVs in sections 6.2(a) and 6.2(b) respectively.
15. Section 10 of Schedule 16E to the IRO stipulates that the number of full-time employees in Hong Kong who carry out the relevant investment activities and have the necessary qualifications must be adequate and in any event not less than 2 in the basis period concerned.

16. The number refers to the “average number of employees” of the subject ESF Office which shall be calculated as: the aggregate of the number of employees as at the end of each calendar month in the basis period concerned as divided by the number of calendar months in that basis period.
17. Section 10 of Schedule 16E to the IRO stipulates that the total amount of operating expenditure incurred in Hong Kong for the relevant investment activities must be adequate and in any event not less than HK\$2,000,000 in the basis period concerned.
18. You must export the filled form to XML file and upload the XML file via the eTAX services under GovHK for submission. If you do not choose to submit Profits Tax Return through electronic filing or semi-electronic filing, you have to print and sign a paper Control List (containing details of the XML file uploaded and QR code) generated by the eTAX services for submission together with the Profits Tax Return in order to complete the submission process. The Control List of this supplementary form must be signed by the same person signing the tax return.