KPMG Private Enterprise

Private Enterprise Series

Hong Kong Family Office Tax Regime Bill Passed

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Summary

On May 10, the Legislative Council of the HKSAR passed the Bill for the concessionary tax regime for Single Family Office.

Hong Kong's new Single Family Office Tax Regime provides certainty that investment profits will be exempted from profits tax, where specific conditions are met.

There is no pre-approval process or application requirement for family offices to benefit from the new tax regime. A self-declaration that the conditions set out under the regime is sufficient to apply for the tax exemption treatment.

The Hong Kong Single Family Office Tax Regime will apply retrospectively from the year of assessment 2022/23.

On May 10, the Legislative Council of the HKSAR passed the long-awaited Bill for the concessionary tax regime for Single Family Offices.

This bill has been welcomed as it provides high-net-worth individuals (**HNWIs**) and their families with certainty that investment profits will be exempted from profits tax. The tax regime will further promote Hong Kong as a hub for family offices, allowing families to leverage Hong Kong's talent pool, robust common law system, the largest private equity and venture capital market in the region and invest with certainty that profits are exempted from tax.

Benefits of the Hong Kong Single Family Office Tax Regime

What are the key benefits of the Hong Kong Single Family Office Tax Regime?

The key features of the Hong Kong Single Family Office Tax Regime include:

- Investment profits from qualified assets, which cover most of the typical financial assets that families invest in, can be exempted from Profits Tax.
- Incidental income arising from holding qualified assets, such as interest from bonds, can also be exempted from Profits Tax (subject to a 5% threshold).
- There is no separate application or pre-approval requirement. A Hong Kong family office that qualifies for the new tax concessions can perform a self-assessment and apply the concession in its annual tax return.
- There is no local investment requirement, the Single Family Office is free to invest worldwide.
- There is no local employees' requirement, such as citizens or permanent residents, and no restriction on non-family member employment.
- A Single Family Office that only serves the family is not required to obtain a license.

What income is tax-exempt under the tax regime?

Investment profits from qualified assets can be exempt from profits tax and this would cover transactions in most financial assets, including securities, bonds and funds.

Income that arises incidental to the holding of qualified assets is also tax-exempt, provided that it does not exceed 5% of the total receipts that arise from the qualified assets. Common incidental income includes interest income. If the 5% limit is exceeded, the entire incidental income will not be tax-exempt under the Single Family Office Tax Regime, while it could be still non-taxable under the tax law in Hong Kong (e.g. offshore sourced). However, having more than 5% incidental income will not taint the exemption for investment profits from qualified assets.

Key conditions for the tax regime

Family considerations

Who is a family member?

The definition of a family member is very broad and covers most lineal descendants and ancestors. It also includes stepchildren and adopted children.

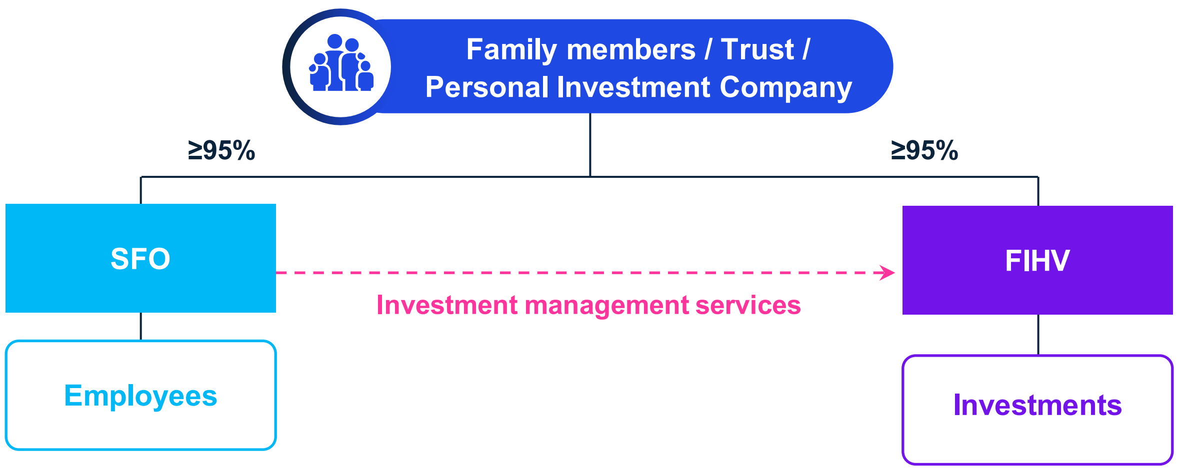
Structure

What is a typical Single Family Office structure that could enjoy the tax concession under the new regime?

Under the Hong Kong Single Family Office Tax Regime, the family must have at least two types of vehicle: a Single Family Office (**SFO**) and a Family-owned Investment Holding Vehicle (**FIHV**).

Most families will hold these two entities directly, through a trust or through a personal investment company as illustrated below.

Illustration of common family office structure



FIHV requirements

The key requirements for a FIHV are:

- At least 95% of the beneficial interest of the FIHV is held by the family. This can be reduced to 75% if the remaining 25% is held by Section 88 tax-exempt charities.
- The FIHV is normally managed or controlled in Hong Kong.
- Employ no fewer than two full-time qualified employees and incur not less than HK$2 million of operating expenditure in Hong Kong each year. These can be outsourced to the Single Family Office.

1 In the draft legislation, the central management and control of the FIHV and SFO need to be exercised in Hong Kong. Under the final bill, both the FIHV and the SFO is only required to be "normally managed or controlled" in Hong Kong. For details, please refer to our previous Hong Kong (SAR) Tax Alert.

Does the FIHV need to be a Hong Kong-incorporated company?

No, the FIHV can be a company, partnership, trust or other legal arrangement such as a foundation. It can be established in or outside of Hong Kong.

Does the FIHV need to file tax returns in Hong Kong?

Yes, the FIHV will need to complete business registration in Hong Kong and file annual tax returns.

Will the tax exemption only apply to the FIHV: that is, will all investments need to be held by the FIHV? Will the tax exemption apply to special purpose vehicles (SPVs) set up underneath the FIHV?

The tax exemption can be extended to the SPV to the extent of the shareholding percentage that the FIHV has in that SPV. For example, if the FIHV owns 50% shares of an SPV, 50% of investment profits from specified assets derived by that SPV will also be tax-exempt in Hong Kong.

Single Family Office requirements

The key requirements for the Single Family Office under the new regime are:

- The office must manage specified assets owned by the family (**AUM**) of at least HK$240 million.
- At least 95% of the beneficial interest of the Single Family Office must be held by the family, or 75% if the remaining 25% is held by tax-exempt charities.
- The Single Family Office is normally managed or controlled in Hong Kong.
- No less than 75% of its profits must come from services to the FIHV (and its SPVs). These could include investment management fees from the FIHV, or service fees from the family members, for example.

Does the Single Family Office need to be a Hong Kong incorporated company?

No, it does not need to be a Hong Kong company; it can be an overseas incorporated company.

Does the Single Family Office need to file tax returns in Hong Kong? And will the tax concession also apply to the Single Family Office?

Yes, the office will need to file annual tax returns in Hong Kong.

The tax concession will not apply to the Single Family Office. Profits derived by the Single Family Office will be subject to Hong Kong Profits Tax under the general Hong Kong tax rules.

Is there a licensing requirement for Single Family Offices?

A Single Family Office is not required to obtain a license, as long as it only provides services to family members. If the office also provides services to external parties, it may need to apply for a license from the Securities and Futures Commission. Professional advice should be sought to ascertain the licensing requirements.

Asset requirements

What assets count towards the AUM of HK$240 million?

The list of assets which will count towards the AUM is set out in Schedule 16C of the Inland Revenue Ordinance.

The list covers most financial assets such as shares, bonds, funds and futures contracts, which are commonly invested by HNWIs. As announced by the Financial Secretary in his Budget Speech, the government will revisit this list and it is expected to be expanded to cover more assets. The value of real estate directly held by the FIHV will not count towards AUM.

Is there any local investment requirement?

No, there is no local investment requirement.

Employee requirements

What qualifications do the two full-time qualified employees need to have? Can the employees be family members?

There is currently no specific requirements in respect of the qualifications, educational background or licences that employees need to have in order to be regarded as a qualified employee. Generally speaking, the employee should have capability and experience to manage the family assets.

Family members can be employees. They will count towards the two full-time employees provided they can demonstrate that they have capability to manage the family assets.

Can the family office sponsor work visas for their employees?

Yes, the office will be able to sponsor work visas.

Compliance requirements

Is it necessary to apply for the Hong Kong Single Family Office Tax Regime in advance?

There is no pre-approval or application requirement in order to benefit from the Single Family Office Tax Regime. The FIHV will perform a self-assessment and, where it considers that the conditions of the regime are met, the FIHV will need to complete a self-declaration (Form IR1479) to be submitted to the Inland Revenue Department along with its tax return. In the self-declaration, the FIHV will need to declare that the conditions for the Single Family Office Tax Regime are met and provide information relating to the office, SPVs, profits derived, net asset value of assets managed, and the activities performed and employees in Hong Kong.

Next steps

The Hong Kong Single Family Office Tax Regime is relevant to existing family offices, high-net-worth individuals and families planning to establish a family office in the region, and other relevant industry participants.

To consider whether you and your family office can benefit from the new tax regime in Hong Kong, you should:

- Review your existing structure – Is your current structure tax efficient or can it be optimised?
- Consider the investments to be held under the Holding Vehicle – How do I optimize my investment holding structure from a tax perspective?
- Consider how to fulfil the requirements under the tax regime – What is the financial and operational set-up required?
- Evaluate the costs required for restructuring – Do the benefits outweigh the costs?
- Manage the workforce and other resources required – How will my human capital and resources be deployed?

Each family is different and there is no simple answer to all of the above questions. Professional advisors will be able to help consider the above questions and determine how your family office structure should be set up and operated.

Contact us

If you have any specific queries or would like to discuss directly with our team, please contact us at HKFOenquiry@kpmg.com and we would be pleased to assist.