

## Hong Kong CLG Compliance and Maintenance Guideline Note

*Unless otherwise indicated, the CLG stated in this quotation refers to a company limited by guarantee (guarantee company) incorporated in Hong Kong in accordance with the Hong Kong Companies Ordinance.*

This article aims to briefly explain the compliance and maintenance requirements of a CLG as imposed the relevant Hong Kong laws and regulations.

Section 1 of this article introduces the basic compliance and maintenance requirements imposed by the Companies Ordinance, such as maintenance of company secretary and registered office, filing of Annual Return, holding of annual general meeting and etc.

Sections 2 lists certain compliance requirements imposed by the Inland Revenue Ordinance, including the filing of profits tax return, employer's return.

Section 3 explains the requirement to register and make retirement compensation contributions by both an employer and its employees, as required by the Mandatory Provident Fund Schemes Ordinance. Section 4 brief list the requirement for labor compensation insurance.

Sections 5 and 6 show the fees and costs associated with the various basic requirements introduced in sections 1 to 3. The fees and costs shown in this guideline note are estimations and for reference only.

Failure to comply with the maintenance requirements as stated in this guideline note may subject a CLG or its directors to penalty or result in the CLG losing its tax exemption status.

This guideline note is not meant to cover all the compliance requirements imposed by Hong Kong laws and regulation. Should client be interested to understand the CLG in detail, please feel free to contact our professional consultants in Kaizen.

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## 1. Company Law Compliance Requirements

### (1) Company Secretary

A CLG, same as other types of companies, must always have a company secretary. The duties of the company secretary include updating and maintaining the statutory registers, written resolutions and minutes of meetings of members and directors and filing of annual return. The Companies Registry should be notified by a specified form within 14 days of any change of the secretary and its particulars.

### (2) Registered Office

In accordance with the Hong Kong Companies ordinance, all companies registered in Hong Kong must always maintain a street address as its registered office address in Hong Kong so as enable legal service to be served. If there is any change to the registered office, the Companies Registry should be notified of the change with 14 days by a form specified.

### (3) Designated Representative

Every company registered in Hong Kong is required to appoint a licenced corporate service provider or accounting firm or law firm as its designated representative. The responsibilities of the designated representative include updating and maintaining the Significant Controller Register (SCR) and liaison and providing assistance relating to the company's SCR to a law enforcement officer.

### (4) Filing of Annual Return

A company limited by guarantee is required to file an Annual Return within 42 days after its return date every financial year. The return date of a CLG is 9 months after its accounting reference date. The purpose of the annual return is to report changes in the particulars of the company with the Companies Registry and therefore make known to the general public the up-to-date registration particulars of the company.

When filing annual return, the company needs to make a payment of a statutory filing fee of USD14 (HKD105) to the Companies Registry.

At the time of filing its annual return, a copy of audited financial statements is also needed to be filed. A set of financial statements include a directors' report, an auditor's report, a balance and an income statement and etc.

If the Annual Return is not filed within 42 days after its return date, substantially higher filing fee will be applicable. For a CLG, the registration fee payable for the late delivery of an Annual Return is:

Table 1 - Annual Return Statutory Filing Fees

No.	If the Annual Return is delivered:	Registration Fees (USD)
1	more than 42 days after but within 3 months after the anniversary of incorporation	112
2	more than 3 months after but within 6 months after the anniversary of incorporation	225
3	more than 6 months after but within 9 months after the anniversary of incorporation	335
4	more than 9 months after the anniversary of incorporation	447

In addition, companies which fail to file annual returns or file annual returns late may be liable to prosecution and, if convicted, pay the fines imposed by the court. The maximum level of fine for a company which failed to comply with the requirements for completing and filing annual return is a fixed penalty of USD6,410 (HKD50,000) and a daily default fine of USD90 (HKD700).

(5) Record Keeping

The accounting records should be kept at the company's registered office or any other place as approved by the directors. If the accounting records are kept outside Hong Kong, such records should be sent back to Hong Kong once every six-month period. The accounting records should be kept for at least 7 years and can be kept in electronic form.

(6) Financial Statements Statutory Audit

A CLG in Hong Kong is required to prepare a set of annual financial statements in accordance with SME-FRS or HKFRS issued by the HKICPA and the financial statements should be laid before an Annual General Meeting. The financial statements include directors' report, statement of financial position, income statement and notes to the accounts.

The Hong Kong Companies Ordinance requires a Hong Kong registered guarantee company to appoint a practising accountant or a public accounting firm licenced in Hong Kong as its independent auditor. The duty of the auditor is to audit and report to the shareholders whether the financial statements of the company present a true and fair view of the financial position of the company.

The preparation of financial statements and audit are compulsory requirements of the Companies Ordinance, even a Hong Kong company has not yet commenced business or did not have any business transaction in a particular year.

A copy of the audited financial statements must be filed with the Companies Registry together with the Annual Return.

(7) Annual General Meeting

A CLG registered in Hong Kong is required by the Companies Ordinance to hold an Annual General Meeting (AGM) once a year, within 9 months after its accounting reference date. If the first accounting year is more than 12 months, the first AGM must be held with 9 months after its anniversary date or within 3 months after its accounting reference date, whichever is later.

The Companies Ordinance further provides that a company is not required to hold AGM in the following circumstances:

- (a) If everything that is required to be done at the meeting is done by a written resolution and copies of the documents required to be laid or produced at the meeting are provided to each member of the company on or before the circulation date of the written resolution;
- (b) It is a single member company;
- (c) It decides to dispense with the holding of AGM by a written resolution or a resolution at a general meeting passed by all members;
- (d) It is a dormant company.

If all the shareholders entitled to attend and vote at the AGM so agree, the meeting may be held at short notice, but otherwise at least 21 clear days' notice is required. Copies of any audited accounts to be considered at the AGM must be sent to all shareholders, debenture holders and other persons so entitled not less than 21 days before the date of the meeting, unless all shareholders entitled to attend and vote at the meeting otherwise agree.

(8) Significant Controller Register

From 1 March 2018, all Hong Kong incorporated companies (except for companies listed on the Hong Kong Stock Exchange) are required to maintain a register of significant controllers (the 'SCR'), which will be accessible to persons whose names are entered in the register or on demand made by any law enforcement officer. Even if a company does not have a significant controller, the company is still required to keep an SCR.

Failure of the company to comply with its SCR obligations is a criminal offence and the company and every responsible person of the company will be liable to a fine of USD3,205 (HKD25,000) and if applicable, a further daily fine of USD90 (HKD700).

(9) Other Compliance Requirements

- (a) Report to the Companies Registry of change of director or change of particulars of a director;
- (b) Report to the Companies Registry of change of company secretary or change of particulars of the company secretary;
- (c) Report to the Companies Registry of any increase in its authorized or issued and paid up capital;
- (d) Update its Register of Members, Register of Directors, Register of Secretary, Register of Transfers and any other statutory registers in a timely manner;
- (e) Maintain records of minutes and accounting records.

(10) Licence to Dispense “Limited”

A CLG with objects restricted to promoting commerce, art, science, religion, charity, or any other useful objects and whose articles require the company to apply its profits or other income in promoting its objects and prohibit the company from paying dividends to its members, may apply to the Registrar for a licence under to delete the word “Limited” and/or the characters “有限公司” from its name.

## 2. Tax Law Compliance Requirements

(1) Renewal of Business Registration Certificate

At the time of registration of a company, the founder must also apply for a business registration certificate. The business registration certificate is also the tax registration certificate of a Hong Kong company, as the business registration number is also the tax file number. A company can apply to have business registration certificate with a one year or three-year validity period.

A company is required to renew its business registration every year, unless its business registration certificate has a validity period of three years. The business registration certificate can normally be renewed one month before or after its expiration date.

The current business registration fees for one year and three year registration certificates are USD290 (HKD2,250) and USD720 (HKD5,590) respectively. Late renewal will attract a penalty of USD40 (HKD300). Further delay will result in court proceeding and extra fine.

A CLG which has obtained Section 88 (of the Inland Revenue Ordinance) exemption from profits tax is also exempted from payment of business registration fee.

(2) Filing Employer's Return

Normally, an Employer's Return is issued by the tax authority to all employers in Hong Kong on the first working day of April each year. Employer is required to complete and return the Employer's Return within one month from the date of issue. The Employer's Return is to report to the Hong Kong tax authority the amount of remuneration the company paid to each of its employees (including directors), including salaries, wages, commissions, bonus and provision of quarters for the period from 1 April to 31 March every year, so as to enable the tax authority to assess and charge individual income tax on the employees.

The Employer's Return consists of two forms, BIR56A and BIR56B. A company is only required to file BIR56A in case of no employ in the previous tax year and file a BIR56B for each employee. and when a company hired employees, a BIR56B is required to be completed and filed for each employee.

Late filing of Employer's Return will result in a fine of USD390 (HKD3,000) and may be liable to prosecution.

In addition, when a company hires employees or when its employees resign, it should report the personal particulars of those employees hired or those employees resigned to the tax authority.

(3) Filing of Profits Tax Return

All Hong Kong registered company must file with the IRD a Profits Tax Return every year. This is to report the operating results of the company to the tax authority so as to enable the tax authority to assess if the company is chargeable to profits tax.

When a company files its Profits Tax Return, it must also file a tax computation and a copy of audited financial statements. In the case where the turnover of a company is less USD256,000 (HKD2,000,000), the audited financial statements is not required to be filed. However, the company should still engage a Hong Kong accounting firm to audit its financial statements every year as the tax authority has the right to request the filing of audited financial statements any time as it think fit.

In general, the company will have a month to complete and file the profits tax return. Extension for filing of the return is possible with reasonable grounds.

Late filing of Profits Tax Return will initially result in a fine of USD155 and further delay may result in court proceeding and extra fines. Moreover, the tax authority has the right to issue an estimated assessment and demand for payment of tax so assessed in the situation of late filing of tax return.

(4) Section 88 Exemption

A CLG for the sole purpose of charity is eligible to apply for exemption from taxes and fees in accordance with Section 88 of the Inland Revenue Ordinance. A CLG with tax exemption status accorded by Section 88 of the Inland Revenue Ordinance enjoy exemptions of stamp duty on transfer of any immovable property or Hong Kong stock, business registration fee, and profits tax on all their income which is solely applied for charitable purposes. Individual and business donors can also claim tax deduction for their approved charitable donation to these tax-exempt charities.

### 3. Mandatory Provident Fund Schemes Ordinance

An employer in Hong Kong is required to make arrangement for relevant employees aged between 18 and 65, who have been employed for 60 days or more, to join a registered MPF scheme. It can select one or more MPF schemes managed by the licensed trustees (e.g. HSBC, Standard Chartered Bank and licensed insurance companies) and then arrange the relevant employees to join the scheme.

Mandatory contributions are calculated on the basis of 10% of an employee's relevant income within the range between USD910 (HKD7,100) and USD3,200 (HKD25,000). The employer and its employee each are required to pay 5% to the scheme. Maximum and minimum income levels have been set for mandatory contribution purposes. If the employee's income is less than USD910 (HKD7,100) per month, he or she will be exempted from making mandatory contribution, but the employer is still required to contribute an amount equals to 5% of the employee's income.

### 4. Employees' Compensation Ordinance Requirements

According to section 40 of the Ordinance, no employer shall employ any employee in any employment unless there is in force a policy of insurance to cover his liabilities under the laws (including the common law) for injuries at work in respect of all his employees, irrespective of the length of employment contract or working hours, full-time or part-time employment.

The minimum insurance cover should be for an amount:

No. of Employees	Amount of Insurance Cover per Event
not more than 200	not less than USD13 million (HKD100 million)
more than 200	not less than USD26 million (HKD200 million)

An employer who fails to comply with the Ordinance to secure an insurance cover is liable to prosecution and, upon conviction, to a maximum fine of USD12,820 (HKD100,000) and imprisonment for two years.

Moreover, under the Employees' Compensation Assistance Ordinance, an employer who fails to comply with the compulsory insurance requirement is liable to pay a surcharge to the Employees Compensation Assistance Fund Board.

## 5. Annual Maintenance Costs

These compliance requirements stated above could be divided into two categories, one with fixed fees and another with variable fees, as listed in the table below. The total amount represents the minimum costs to maintain a trading company (with minimal operation) in good standing in Hong Kong. In order to provide our existing and potential clients with a clearer picture of what they should budget to maintain their Hong Kong companies in good standing, we have prepared the below table detailing the related compliance and maintenance costs for their reference.

The annual maintenance/compliance fees are expected to be incurred once a year in the second year and thereafter and the variable fees are for general reference only and represent the minimum you should budget for the purpose of maintaining a Hong Kong company in good standing. The actual costs will vary in accordance with the nature of business or scale of operation of the company and some other factors and is likely to be higher than the budgeted amounts.

**Table 2 – Annual Maintenance Fee**

Item	Description	Fee (USD)	Note
	Basic Maintenance Costs (Fixed)		
1	Business registration fee	0	1
2	Annual Return statutory filing fee	14	
3	Nominee company secretary (per annum)	450	2
4	Registered office address (per annum)	350	3
5	Preparation of AMG documents	160	4
6	Designated Representative	160	
	<b>Sub-total:</b>	<b>1,134</b>	
	Accounting Related Fees (Variable)		
7	Accounting and bookkeeping	250 up	5
8	Financial statements statutory audit	1,000 up	6
9	Hong Kong Profits Tax computation and filing	400 up	7
10	Employer's return filing	85 up	8
	<b>Subtotal:</b>	<b>1,735 up</b>	

### Note:

- (1) The registration fees for a validity period of one year and three years are USD290 (HKD2,250) and USD720 (HKD5,590) respectively. The Hong Kong Government has reduced the business registration fee from USD29 to USD33 for both new registration and renewal during the period from 1 April 2021 to 31 March 2022. A CLG with section 88 exemption is exempted from payment of this fee.



- (2) Kaizen's annual company secretary services include:
  - (a) acting as company secretary
  - (b) handling the change of registered office address, if any;
  - (c) updating and maintenance of minutes of shareholders and directors;
  - (d) updating and maintenance of statutory registers;
  - (e) preparation and filing of annual return
  
- (3) Kaizen's registered office services include:
  - (a) providing a Hong Kong street address as the registered office of the client's Hong Kong company;
  - (b) Forwarding of mails from the Hong Kong Government and bank;
  
- (4) The fee covers the preparation of written resolutions in relation to AGM. Kaizen can arrange physical AGM, our fees will be quoted upon request.
  
- (5) Kaizen's fee for accounting (book-keeping) varies from case to case. In particular, our fee will depend on the volume of accounting transactions. Accounting transaction includes number of sales invoices, purchase bills, checks, bank remittances, and bank receipts etc. The number of transactions, the nature of business/transactions and tidiness of record keeping all will have an impact on the fees charged by Kaizen. Please contact Kaizen to obtain the accounting fee schedule.
  
- (6) The fees for auditing of financial statements are mainly determined by the nature of business and turnover and the types of assets held by the company. In general, fees for auditing of the financial statements of a company which is engaged in trading business and at the same time holds investment in property and security will definitely higher than that for a company with trading business only. Please contact Kaizen to obtain the audit fee schedule.
  
- (7) This fee covers preparation of tax computation, preparation and filing of profits tax return only. Kaizen can also assist clients to apply for exemption from profits tax. Fees for application for exemption from profits tax will be negotiated and charged separately.
  
- (8) This fee covers preparation and filing of employer's return for companies without employees. If there are employees, an extra fee of USD100 per employee will be charged. For example, Company ABC Limited hired two employees during the year, then the total fees for handling employer's return will be USD280.

## 6. Payroll Processing and Filing of Employer's Returns

Kaizen can provide monthly payroll and MPF reporting services. Monthly payroll and MPF reporting services include calculation of salary and preparation of payroll slips, making auto payment of salaries and filing MPF contribution forms. Below please find our fees of payroll and MPF filing services:

**Table 3 – Payroll and Tax Return Filings Fees**

Item	Particulars	Fee (USD)
1	Monthly Calculation of Salary	40 /month /employee
	Producing Pay slips on a monthly basis	
	Handling MPF Contributions on a monthly basis	
	Auto Payment of Salaries on a monthly basis	
2	Filing of Forms to IRD on hiring of each new employee (IR56E)	100
3	Filing of Forms to IRD on termination of each employees (IR56F)	100
4	Registration of MPF Scheme for each new employee (Note 1)	100
5	Report of termination of each Foreign Employees (IR56G)	100
6	Submission of BIR56A regardless number of employees (IR56A)	85
7	Submission of BIR56B for each employee (IR56B)	100
8	Report of Remuneration Paid to persons other than employees (IR6036A)	100
9	Report of Remuneration Paid to persons other than employees (IR56M)	100
10	Submission of annual ITR of each employee	260 up

Note:

- (1) A company is required to register its new employee to a MPF scheme. A new employee does not have to make MPF contribution in the first two months of employment.
- (2) The Hong Kong tax authority will issue an individual income tax return to all individual taxpayers in Hong Kong. The completion and filing of individual tax return are that the employees themselves.

*If you wish to obtain more information or assistance, please visit our official website at [www.kaizencpa.com](http://www.kaizencpa.com) or contact us through the following:*

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