

怎樣申請檢視保管箱或 自保管箱取去物品

(適用於在二零零六年二月十一日或之後去世的人士的銀行保管箱)

How to apply for inspection of or removal
of items from bank deposit box of a person
who died on or after 11 February 2006



怎樣申請檢視保管箱或 自保管箱取去物品 (適用於在二零零六年二月十一日或之後去世的人士的銀行保管箱)

引言

《2005年收入(取消遺產稅)條例》訂明有關檢視死者(在二零零六年二月十一日或之後去世的人士)生前租用的銀行保管箱和自保管箱取去物品的規定。民政事務總署署長根據民政事務局局長轉授的權力，在接獲有關人士的申請後，可發出“需要檢視銀行保管箱證明書”(下稱“檢視證明書”)和“自銀行保管箱取去物品授權書”(下稱“取去物品授權書”)，讓申請人檢視保管箱和自保管箱取去指定的物品。有關的規定載於《遺囑認證及遺產管理條例》(香港法例第10章)第60C至第60I條。

有關保管箱可以下列方式租用：

- (a) 只以死者本人姓名租用；
- (b) 死者與其他人士聯名租用，而租用合約訂有“尚存安排”，即該保管箱任何租用人去世並不影響該保管箱任何其他租用人取用箱內物品。例如，有關的合約明確訂明，當保管箱的其中一名聯名租用人去世時，銀行會確認尚存租用人為唯一享有合約項下的權利或權益的人；或
- (c) 死者與其他人士聯名租用，而租用合約沒有訂明“尚存安排”。

檢視銀行保管箱

申請檢視證明書

申請檢視死者生前租用的保管箱，須填寫表格HAEU3。有關的申請可由下列人士提出：

- (a) 死者的遺囑執行人；
- (b) 有權優先管理死者遺產的人士；或
- (c) 尚存租用人(如保管箱是死者與其他人士聯名租用的)。

申請人應持有保管箱的鑰匙。

證明文件

申請檢視證明書，必須提交下列證明文件：

- (a) 死者的身份證 / 護照；
- (b) 死者的死亡證；
- (c) 申請人的身份證 / 護照；
- (d) 死者最後的遺囑(如申請人以遺囑執行人的身分提出申請)；
- (e) 可證明死者與申請人關係的文件，例如結婚證書或出生證明書(如申請人並非死者的遺囑執行人)；
- (f) 較申請人有權優先管理死者遺產的人士妥為簽立的放棄承辦書(如適用)；
- (g) 較申請人有權優先管理死者遺產的人士的死亡證(如適用)；
- (h) 遺囑執行人或較申請人有權優先管理死者遺產的人士的授權書(如適用)；授權書如不是由律師辦理，須由另一名最近親見證；
- (i) 可證明(f)、(g)或(h)項所提述的人士與死者關係的文件(如適用)；及
- (j) 可證明死者生前租有保管箱的文件，例如保管箱的租用合約。

下文 **在特殊情況下檢視保管箱** 一段，詳列在特殊情況下須提交的其他證明文件，也請參閱。

預約檢視保管箱

在檢視證明書發出後，證明書的持有人須與民政事務總署遺產受益人支援組預約檢視保管箱。遺產受益人支援組將會安排人員到場見證檢視過程。

檢視過程

銀行會要求證明書的持有人提供身分證明文件，而在檢視過程銀行也會派員在場。如保管箱是聯名租用的，檢視證明書通常會加入一項條件，規定進行檢視時，須有另一方(即遺囑執行人 / 有權優先管理死者遺產的人士或尚存租用人)在場。

在檢視過程，除在特定情況下可取去遺囑或類似的文書外，不得自保管箱取去任何文件或物品。

取去遺囑

在檢視保管箱時，如發現遺囑或類似的文書，而檢視證明書的持有人是遺囑指明的執行人或其中一名執行人，銀行將會複印遺囑或類似的文書並把副本放進保管箱，然後讓檢視證明書的持有人取去該遺囑或類似的文書。在其他情況下，銀行將會複印遺囑或類似的文書，然後把正本放回保管箱，並把副本交給在場的公職人員。根據法例規定，民政事務局局長須保存該副本六年。

擬備保管箱物品清單

如果：

- (a) 保管箱內沒有遺囑或類似的文書；
- (b) 保管箱內有遺囑或類似的文書，而檢視證明書的持有人是遺囑指明的執行人；或
- (c) 檢視證明書的持有人是聯名租用保管箱的尚存租用人，

檢視證明書的持有人應在銀行職員、公職人員，以及尚存租用人或遺囑執行人 / 有權優先管理死者遺產的人士(保管箱屬聯名租用的情況)在場下，擬備保管箱物品清單。如有需要，在場的公職人員可協助擬備物品清單。檢視證明書的持有人和在場的公職人員應在清單正本上簽署核實，以證明清單真實無誤。

清單正本由檢視證明書的持有人保存，其他在場的各方將會獲得清單副本。根據法例規定，銀行和民政事務局局長須保存副本六年。

在特殊情況下檢視保管箱

如保管箱內發現遺囑或類似的文書，但：

- (a) 該遺囑或類似的文書屬無效；
- (b) 該遺囑或類似的文書並無指明遺囑執行人；或
- (c) 該遺囑或類似的文書所指明的唯一遺囑執行人或所有遺囑執行人：
 - (i) 無法尋獲；
 - (ii) 拒絕出任遺囑執行人；
 - (iii) 已去世；或
 - (iv) 因其他理由而不能勝任遺囑執行人，

有權優先管理死者遺產的人士可申請檢視證明書，並須提供足夠證據支持申請。在這情況下發出的檢視證明書會列明有關的事項。

自銀行保管箱取去物品

民政事務總署署長只會在保管箱的物品清單備妥後，才會發出取去物品授權書，讓有關人士自死者的保管箱取去指定的文件(包括遺囑或類似的文書)或物品。根據法例規定，有關人士可自保管箱取去的文件須符合下列條件：

- (a) 在申請以簡易方式管理遺產、遺產承辦書、或在香港以外的法院發出的遺產承辦書上蓋章時，必須提交有關文件，或有關文件與上述申請有關；或
- (b) (i) 該文件表面看來並非屬於死者；
(ii) 該文件是有關人士所急需的；
(iii) 取去該文件，也不會損害任何人對死者的遺產所享有的合法權益。

任何人都不會獲准自保管箱取去有金錢價值的文件和物品，除非在特定情況下，保管箱是聯名租用，並訂有尚存安排，則尚存租用人可申請自保管箱取去屬其本人的物品。

申請取去物品授權書

下列人士可申請取去物品授權書：

- (a) 死者的遺囑執行人；
- (b) 有權優先管理死者遺產的人士；或
- (c) 尚存租用人(如保管箱由死者與其他人士聯名租用)。

有尚存安排的聯名租用的保管箱

屬聯名租用的保管箱，而租用協議訂有尚存安排，則尚存租用人可申請取去物品授權書，以便自保管箱取去屬其本人的文件和物品。申請須以表格HAEU4A提出。尚存租用人並須取得遺囑執行人 / 有權優先管理死者遺產的人士的書面同意，並在其在場下才可取去有關物品。

在死者去世12個月後，只要保管箱物品清單已按照有關的法例條文備妥，尚存租用人有權取用保管箱內物品，而無須申請取去物品授權書。不過，銀行可能會要求尚存租用人提供足夠證據，證明死者去世超過12個月。

申請自保管箱取去符合上文**自銀行保管箱取去物品**一段所述條件的文件，須以表格HAEU4B提出。

保管箱屬死者與其他人士聯名租用的，有關取去物品授權書的申請須獲另一方的書面同意。如申請人是死者的遺囑執行人 / 有權優先管理死者遺產的人士，另一方是指尚存租用人；如申請人是尚存租用人，另一方是指遺囑執行人 / 有權優先管理死者遺產的人士。

證明文件

申請取去物品授權書，必須提交下列證明文件：

- (a) 申請人的身份證 / 護照；
- (b) 銀行保管箱的物品清單；
- (c) 死者最後的遺囑(如申請人是死者的遺囑執行人，而該遺囑之前並未遞交)；
- (d) 可證明死者與申請人關係的文件，例如結婚證書或出生證明書(如申請人並非死者的遺囑執行人，而有關文件之前並未遞交)；
- (e) 較申請人有權優先管理死者遺產的人士妥為簽立的放棄承辦書(如適用，以及有關文件之前並未遞交)；
- (f) 較申請人有權優先管理死者遺產的人士的死亡證(如適用，以及有關文件之前並未遞交)；
- (g) 可證明(e)或(f)項所提述的人士與死者關係的文件(如適用)；
如以表格HAEU4A提出的申請，須一併提交下列證明文件：
- (h) 可證明申請取去的文件及 / 或物品屬尚存租用人所擁有的文件。

誓章

遺產受益人支援組在審查取去物品授權書的申請後，可要求申請人作出誓章，宣誓表明在申請表格上填寫的事項屬真確無誤。

申請索取民政事務總署署長所保存文件的副本 / 核證真確副本

關於由民政事務總署署長保存，在保管箱內的遺囑或類似的文書副本，或保管箱物品清單副本，合資格的人士可申請索取有關文件的副本 / 核證真確副本。申請人須為副本 / 核證真確副本繳交費用。

- 如申請索取遺囑或類似的文書副本的副本，申請人須是有權優先管理死者遺產的人士，並擬申請承辦死者的遺產，而該遺囑或類似的文書是申請承辦遺產所需或有關文件。
- 如申請索取保管箱物品清單副本的副本，申請人須是對死者遺產享有合法權益的人士，或是與死者生前聯名租用保管箱的尚存租用人。

How to apply for inspection of or removal of items from bank deposit box of a person who died on or after 11 February 2006

申請索取保管箱內的遺囑或類似的文書副本的副本 / 核證真確副本，須填寫表格HAEU6A；申請索取保管箱物品清單副本的副本 / 核證真確副本，須填寫表格HAEU6B。

表格

申請表格HAEU3、HAEU4A、HAEU4B、HAEU6A和HAEU6B可向民政事務總署遺產受益人支援組索取(聯絡該組的方法，可參閱下文**查詢**一段)，或從下列網址下載：<http://www.had.gov.hk/estates>。

查詢

關於檢視死者(在二零零六年二月十一日或之後去世的人士)生前租用的保管箱或自有關的保管箱取去物品的安排，如有任何查詢，可聯絡民政事務總署遺產受益人支援組：

- 地址：香港灣仔軒尼詩道130號修頓中心3樓
- 電話：2835 1535
- 電郵：ebsu@had.gov.hk
- 網址：<http://www.had.gov.hk/estates>

有關二零零六年二月十一日之前去世的人士的遺產管理事宜，請與稅務局遺產稅署聯絡，電話號碼2594 3240。

民政事務總署

二零零七年四月

Introduction

The Revenue (Abolition of Estate Duty) Ordinance 2005 provides for inspection of and removal of items from the safe deposit box rented by a person who died on or after 11 February 2006. The Director of Home Affairs, under the delegated authority from the Secretary for Home Affairs, may issue on application a "Certificate for Necessity of Inspection of Bank Deposit Box" (certificate for inspection) for inspection purposes and an "Authorization for Removal from Bank Deposit Box" (authorization for removal) for the purpose of removal of specific item(s). Sections 60C to 60I of the Probate and Administration Ordinance, Chapter 10, Laws of Hong Kong, are relevant.

The safe deposit box in question may be rented –

- (a) in the sole name of the deceased person;
- (b) jointly with other person(s) and where the lease agreement provides for "survivorship arrangement", i.e. access to the contents of the box of any of the renters of the box is not affected by the death of the other renter of the box, e.g. the agreement specifically states that the bank shall recognize the surviving renter(s) as the only person(s) as having any right or interest under the agreement in the event of the death of one of the joint renters; or
- (c) jointly with other person(s) and where the lease agreement does not provide for "survivorship arrangement".

Inspection of Bank Deposit Box

Application for certificate for inspection

An application for inspection of the safe deposit box of the deceased person should be made on Form HAEU3. The application may be made by –

- (a) an executor of the deceased person;
- (b) a person who is entitled in priority to administer the estate; or
- (c) the surviving renter if the safe deposit box is jointly rented by the deceased person with other person(s).

The applicant should have a key to the safe deposit box.

Supporting documents

The following documents are required to support an application for inspection of the safe deposit box –

- (a) the identity card/passport of the deceased person;
- (b) the death certificate of the deceased person;
- (c) the identity card/passport of the applicant;
- (d) the last will of the deceased person, if the applicant is in the capacity of the executor;
- (e) any document(s) evidencing the relationship between the deceased person and the applicant, such as marriage or birth certificate, if the applicant is not the executor of the deceased person;
- (f) the letter(s) of renunciation duly executed by the person(s) entitled in higher priority to administer the estate, if applicable;
- (g) the death certificate(s) of the person(s) entitled in higher priority to administer the estate, if applicable;
- (h) the authorization letter(s) from the executor(s) or the person(s) entitled in higher priority to administer the estate (signed in the presence of another next of kin, if the authorization is not prepared by a legal firm), if applicable;
- (i) any document(s) evidencing the relationship between person(s) named under (f) or (g) or (h) and the deceased person, if applicable; and
- (j) any document(s) evidencing the existence of the safe deposit box, e.g. the lease agreement of the box.

Please also refer to the section on **Inspection of safe deposit box in special circumstances** below which sets out the further evidence required in the circumstances.

Appointment for inspection

On issue of the certificate for inspection, the holder of the certificate should make an appointment with the Estate Beneficiaries Support Unit of the Home Affairs Department for the inspection. Officers from the Estate Beneficiaries Support Unit will attend the inspection process.

Inspection Process

The bank will ask for proof of identity of the holder of the certificate for inspection and a bank staff will attend the inspection process. If the safe deposit box in question is a jointly rented one, the certificate of inspection will normally require, as a condition of inspection, the presence of the other party, i.e. the executor/the person entitled in priority to administer the estate or the surviving renter.

No document or article, with the exception of a will or similar instrument under specific circumstances, should be removed from the safe deposit box at the inspection.

Removal of will

If a will or similar instrument is found in the safe deposit box upon inspection, and the holder of the certificate is the executor or one of the executors named in it, the bank will allow the holder to remove the will or instrument after a copy of it has been placed in the box. In other cases, the bank will make a copy of the will or instrument, place the original back to the box and give the copy to the public officers present. The law requires the Secretary for Home Affairs to keep the copy of the will or similar instrument for 6 years.

Preparation of inventory

Where –

- (a) no will or similar instrument is found in the safe deposit box;
- (b) a will or similar instrument is found in the safe deposit box and the holder of the certificate is a named executor in it; or
- (c) the holder of the certificate is the surviving renter in the case of a jointly rented safe deposit box,

the holder of the certificate for inspection should prepare an inventory of the contents of the safe deposit box in the presence of the bank staff, the public officers, and in the case of a jointly rented safe deposit box, the other party, i.e. the surviving renter or the executor/the person entitled in priority to administer the estate. The public officers may *assist* in the preparation of the inventory if necessary. The holder of the certificate and the public officers should verify the truthfulness and correctness of the inventory by signing on the original copy.

The original copy of the inventory will be kept by the holder of the certificate. The other parties present will be provided with a copy of it. The law requires the bank and the Secretary for Home Affairs to keep the copy of the inventory for 6 years.

Inspection of safe deposit box in special circumstances

If a will or similar instrument is found in the safe deposit box but that –

- (a) the will or instrument is not valid;
- (b) no executor is named in the will or instrument; or
- (c) the executor or all executors named in the will or instrument –
 - (i) cannot be located;
 - (ii) refuse(s) to act as executor;
 - (iii) has/have died; or
 - (iv) is/are otherwise not capable of acting as the executor,

a person entitled in priority to administer the estate may apply for a certificate for inspection. He/she will have to support the application with sufficient evidence, and the relevant factors will be stated in the certificate for inspection.

Removal of Items from Bank Deposit Box

An authorization to remove specific documents (including the will or similar instrument) or articles from the safe deposit box of the deceased person will be issued only after an inventory of the contents of the box has been prepared. The law provides that a document may be removed from the safe deposit box if –

- (a) the document is necessary for or relevant to an application for summary administration, a grant of representation or sealing of a foreign grant; or
- (b) (i) the document belongs prima facie to a person other than the deceased person;
- (ii) the document is urgently needed by the person; and
- (iii) the removal of the document will not prejudice the legitimate interest of any person in the estate of the deceased person.

Removal of documents of monetary value and articles from the safe deposit box is not allowed, except in cases where the applicant is the surviving renter of a jointly rented safe deposit box with survivorship arrangement under specific circumstances.

Application for authorization for removal

An application for authorization for removal of items from safe deposit box may be made by –

- (a) an executor of the deceased person;
- (b) a person who is entitled in priority to administer the estate; or
- (c) the surviving renter if the safe deposit box is jointly rented by the deceased person with other person(s).

Jointly rented safe deposit box with survivorship arrangement

Where the lease agreement of the jointly rented safe deposit box provides for survivorship arrangement, the surviving renter may apply for an authorization to remove from the safe deposit box documents and articles that belong to him/her. The application should be made on Form HAEU4A, and the surviving renter should secure the written consent of the executor/the person entitled in priority to administer the estate to the removal of the items, as well as the latter's presence at the removal process.

After 12 months following the death of the deceased person, the surviving renter may exercise his/her right of access to the safe deposit box provided that an inventory of the contents in the safe deposit box has already been prepared in accordance with the relevant legal provisions. There is no need to apply for an authorization for removal of items. However, the bank will likely ask for sufficient proof that the deceased person has died over 12 months.

Other applications for removal of document(s) from the safe deposit box that meet the conditions set out under the heading **Removal of Items from Bank Deposit Box** above should be made on Form HAEU4B.

In cases where the safe deposit box was jointly rented by the deceased person with other person(s), the application should be supported by written consent from the other party (e.g. the surviving renter(s) in cases where the applicant is the executor/the person entitled in priority to administer the estate of the deceased person, or the executor/the person entitled in priority to administer the estate if the applicant is the surviving renter).

Supporting documents

The following documents are required to support an application for removal of items from the safe deposit box –

- (a) the identity card/passport of the applicant;
- (b) the inventory of the bank deposit box;
- (c) the last will of the deceased person, if the applicant is the executor of the deceased person and a copy of the will has not been provided;
- (d) any document(s) evidencing the relationship between the deceased person and the applicant, such as marriage or birth certificate, if the applicant is not the executor of the deceased person and such document has not been provided;
- (e) the letter(s) of renunciation duly executed by the person(s) entitled in higher priority to administer the estate, if applicable and has/have not been provided;
- (f) the death certificate(s) of the person(s) entitled in higher priority to administer the estate, if applicable and has/have not been provided;
- (g) any document(s) evidencing the relationship between person(s) named under (e) and (f) and the deceased person, if applicable; and in respect of applications on Form HAEU4A:
- (h) document(s) evidencing the surviving renter's ownership of the document(s) and/or article(s) to be removed.

Affidavit

After the Estate Beneficiaries Support Unit has vetted the application for an authorization for removal, it may ask the applicant to swear/affirm in an affidavit as to the truthfulness and correctness of facts set out in the application.

Application for Copy/Certified True Copy of Document kept by the Director of Home Affairs

Eligible persons may apply for a copy/certified true copy of the copy of the will or similar instrument in the safe deposit box or of the copy of the inventory in respect of the safe deposit box kept by the Director of Home Affairs. A fee for the copy/certified true copy is payable.

- In the case of the copy of the will or similar instrument, the applicant should be the person entitled in priority to administer the estate who intends to apply for a grant in respect of the estate of the deceased person, and the will or instrument is necessary for or relevant to the application in question.

- In the case of the copy of the inventory, the applicant should be the one who has a legitimate interest in the estate of the deceased person or the surviving renter of the safe deposit box jointly rented with the deceased person.

Application for a copy/certified true copy of the copy of the will or similar instrument in the safe deposit box or of the copy of the inventory in respect of the safe deposit box kept by the Director of Home Affairs should be made on Form HAEU6A or HAEU6B respectively.

Forms

Copies of the forms HAEU3, HAEU4A, HAEU4B, HAEU6A and HAEU6B are available from the Estate Beneficiaries Support Unit of the Home Affairs Department. (Please refer to the section on **Enquiries** below for contact details.) Alternatively, the forms can be downloaded from the following website : <http://www.had.gov.hk/estates>.

Enquiries

If you have any questions related to the inspection of or removal of items from the safe deposit box of a person who died on or after 11 February 2006, you may contact the Estate Beneficiaries Support Unit of the Home Affairs Department –

- Address : 3/F, Southorn Centre, 130, Hennessy Road, Wan Chai, Hong Kong
- Telephone : 2835 1535
- E-mail : ebsu@had.gov.hk
- Website : <http://www.had.gov.hk/estates>

For administering the estates of persons who died before 11 February 2006, please contact the Estate Duty Office of the Inland Revenue Department at 2594 3240.

*Home Affairs Department
April 2007*