

How to apply for a Confirmation Notice in respect of the small estate of a person who died on or after 11 February 2006

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Introduction

The Director of Home Affairs, under authority delegated by the Secretary for Home Affairs, may issue on application a confirmation notice in respect of a small estate. The confirmation notice certifies that the handling of the estate of a deceased person specified in the schedule attached to the notice will be exempted from the relevant intermeddling provisions. Section 60K of the Probate and Administration Ordinance, Chapter 10, Laws of Hong Kong, is relevant.

Application for confirmation notice

The confirmation notice will enable the executor or the person entitled in priority to administer the estate to administer a small estate of a person who died on or after 11 February 2006.

- To be eligible for issue of a confirmation notice¹, all the properties beneficially owned by the deceased person in Hong Kong as at the date of death should be wholly made up of money not exceeding \$50,000 in aggregate. The deceased person also did not hold any property as trustee or as the manager of a Tso or Tong.
- The applicant should be either the executor of the deceased person or the one entitled in priority to administer the estate.
- The application should be made on Forms HAEU5, HAEU5-A and HAEU5-S. Copies of the forms 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>.
- Form HAEU5-S is for setting out the schedule of all the properties beneficially owned by the deceased person as at the date of death. To facilitate subsequent processing by bank(s), details of the bank account(s) including the name of bank(s), account number(s) and cash amount(s) should be provided. All accounts should be held in the sole name of the deceased person.
- After the application has been vetted, the applicant will be asked to swear/affirm in an affidavit as to the truthfulness and correctness of the affidavit and the schedule exhibited by the affidavit.

¹ If at the date of death, the deceased person beneficially owned other properties in Hong Kong not being money (such as securities, business, landed property, motor vehicles, safe deposit box, jewels, Mandatory Provident Funds, insurance policy), or debts (such as tax liabilities, bank loan, overdraft, credit card debt), this confirmation notice shall not be applicable.

Supporting documents

The following documents are required to support an application for a confirmation notice -

- (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 any;
- (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) any document(s) evidencing the relationship between person(s) named under (f) and/or (g) and the deceased person, if applicable; and
- (i) fixed deposit receipt(s)/bank statement(s)/bank passbook(s) in respect of all bank account(s) of the deceased person, showing the bank account balance as at the date of death of the deceased person and those for the last three months before death.

On approval of the application, a confirmation notice with a duplicate of the schedule attached to it will be issued to the applicant.

Cancellation of confirmation notice

If the applicant subsequently finds out that the information provided in the affidavit and/or the schedule is inaccurate (e.g. some properties have been left out from the schedule, the amount of cash declared was incorrect, the deceased person held property as trustee or as the manager of a Tso or Tong), the applicant should notify the Director of Home Affairs and, if a confirmation notice has been issued, return it for cancellation.

The Director of Home Affairs may also notify the applicant of the cancellation of the confirmation notice if any inaccuracy in the application papers has been detected. The applicant should return the confirmation notice as soon as possible; otherwise he/she commits an offence, and is liable on conviction to a fine at level 1 (currently \$2,000).

The applicant may apply for a new confirmation notice if all the properties beneficially owned by the deceased person in Hong Kong as at the date of death are indeed wholly made up of money not exceeding \$50,000 in aggregate and the deceased person did not hold any property as trustee or as the manager of a Tso or Tong.

Important notes

The confirmation notice is not a replacement for grant of representation. The bank may exercise its discretion in deciding whether to release the money in the bank account(s) stated in the schedule annexed to the confirmation notice to the executor or the person entitled in priority to administer the estate without a grant from the court.

The executor or the person entitled in priority to administer the estate, to whom money is paid, is legally obliged to administer the money properly.

Enquiries

If you have any questions related to the application for a confirmation notice in respect of the small estate of a person who died on or after 11 February 2006, you may approach the Estate Beneficiaries Support Unit of the Home Affairs Department -

- Address : 3/F, Southern Centre, 130, Hennessy Road, Wan Chai, Hong Kong
- Telephone : 2835 1535
- Fax : 2122 9497
- 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
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