

How Will the IRD Review of NGOs Impact Me?

Asian Charity Services
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Our speakers



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Agenda

1 Developments in tax environments of charities

2 Current IRD reviews on NGOs and
NGOs' common misconceptions leading to tax problems

3 Way forward

4 Q&A

Developments in tax environment of charities

1

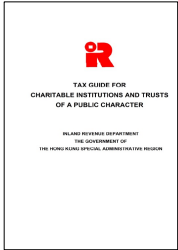
Sequence of events – IRD’s review on charities

Time	Event
2016	<ul style="list-style-type: none">• Court of Final Appeal decision in <i>Sheng Kung Hui</i> case• Audit Commission reviews IRD’s practice on administering charities
2017	<ul style="list-style-type: none">• IRD commenced reviews on charities tax exemption status under S. 88 of the IRO• PwC TCS team set up a charity task force
2019	<ul style="list-style-type: none">• PwC meeting with DCIR and IRD Charities team on draft guidelines and assessing practice• IRD issued new guideline on charities
2020	<ul style="list-style-type: none">• PwC providing suggestions to DCIR on the revised guideline on charities• IRD issued revised guideline on charities• IRD’s letter specifying FSTB contact for future S.87 petition on other issues
2021	<ul style="list-style-type: none">• Certain foundation cases and university cases referred to tax audit team

Current IRD reviews on NGOs and NGOs' common misconceptions leading to tax problems

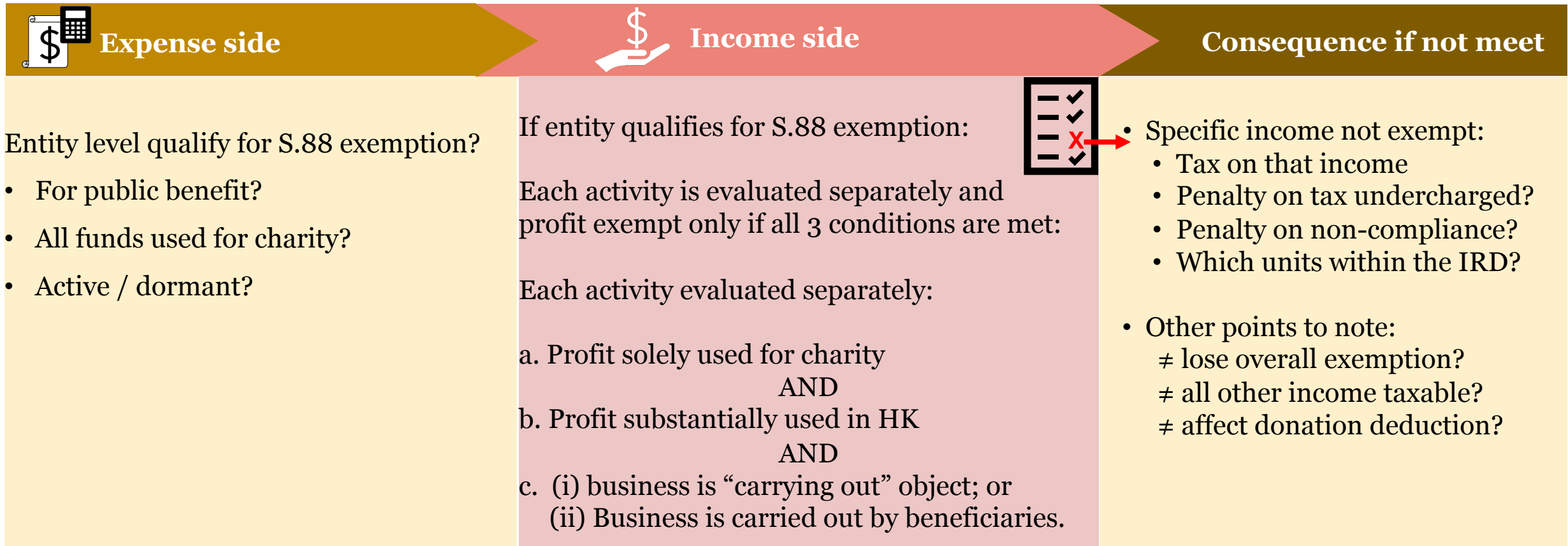
2

All profits used for charity = exempt?

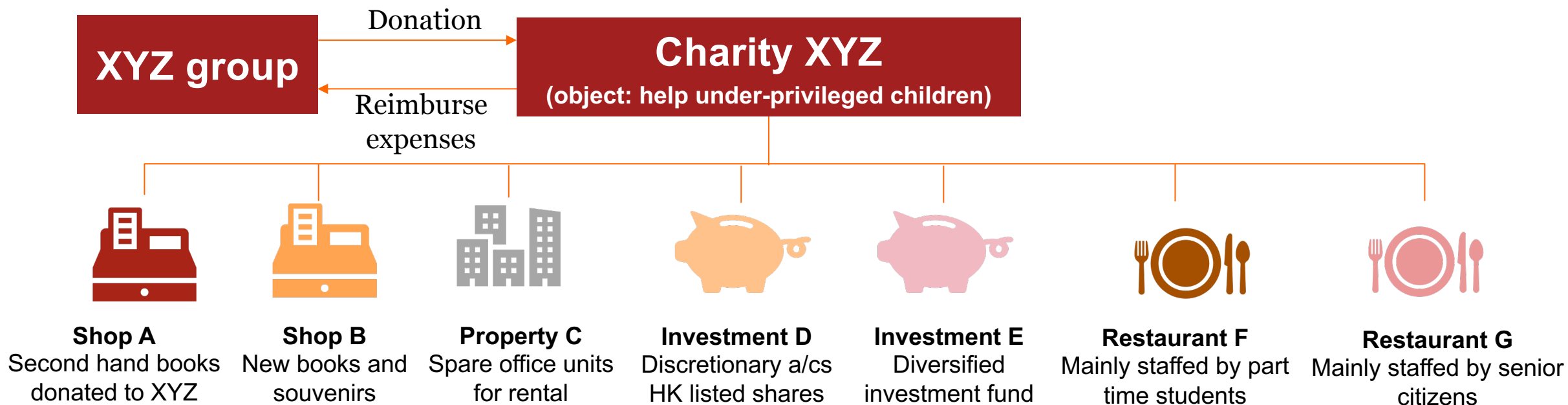


IRD's tax guide for charities:

A charity carrying on a business is chargeable to profits tax unless all of the following conditions are satisfied:



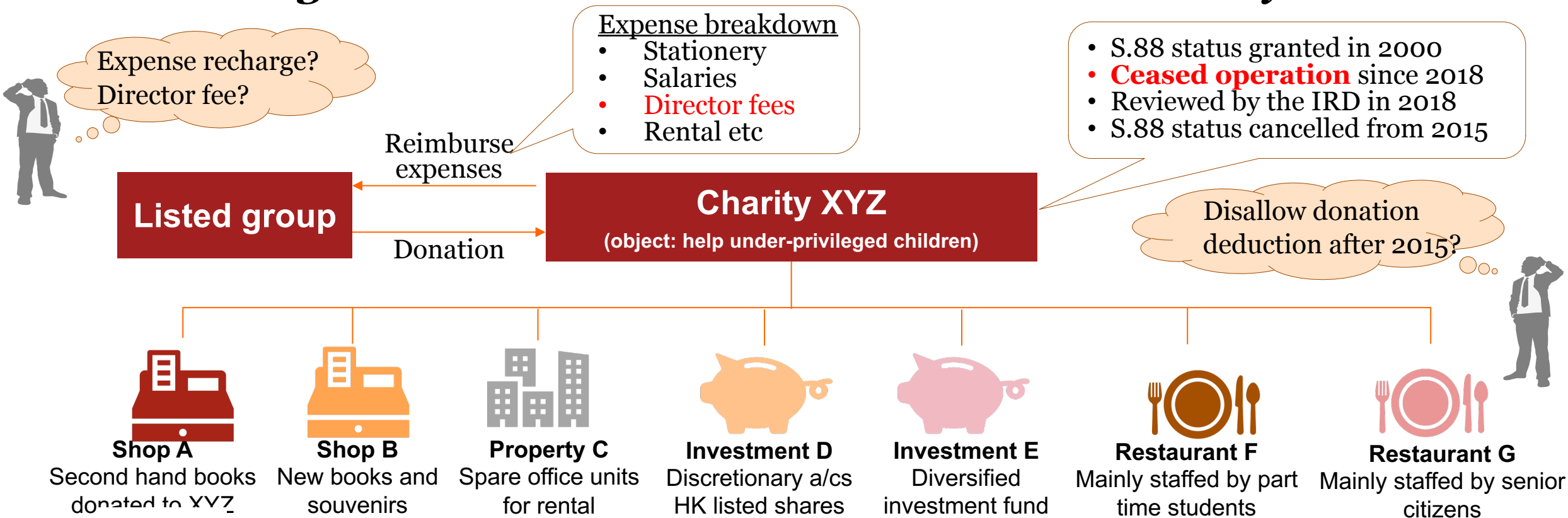
Case sharing 1: Activities exercised in “carrying out objects?” *



- Profits all used for charitable purposes in HK
- “Object” clause includes running shops, property rental, investments and restaurants
- Are the shops / property rental / investments / restaurants considered “carrying out objects”?
- Mitigation measures?

* The above examples are extracted from various real life cases

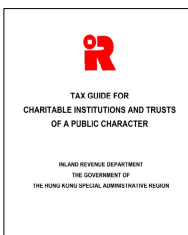
Case sharing 2: Directors' remuneration & dormant charity *



IRD's tax guide for charities:

Director remuneration only allowed in exceptional circumstances:

- Special qualifications not otherwise available ; AND
- Number of remunerated directors must be less than majority of quorum; AND
- Remunerated directors must be absent from discussions about their remunerations.



Way forward

3

Way forward



Q&A

Thank you!



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