
2. Accountant's Report Rules

ARRANGEMENT OF RULES

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1. Citation

These Rules may be cited as the Accountant's Report Rules.

2. Interpretation

In these rules, unless the context otherwise requires -

"client" (當事人) means any person on whose account a solicitor or a firm holds or receives client's money;

"client account" (當事人帳戶) means, subject to rule 15 of the Solicitors' Accounts Rules (Cap. 159 sub. leg. F), a current or deposit account at a bank located and licensed in Hong Kong in the name of the solicitor or a firm in the title of which the word "client" appears;

"client's money" (當事人款項) means money held or received by a solicitor or his firm on account of a person for whom he or his firm is acting in relation to the holding or receipt of such money either as a solicitor or, in connection with his practice as a solicitor, as agent, bailee, stakeholder, solicitor-trustee or in any other capacity, but not money to which the only person entitled is the solicitor himself or, in the case of a firm, one or more of the partners in the firm:

Provided that the expression "client's money" shall not extend to money held or received by a solicitor holding an office to which section 75(a) of the Ordinance applies, in the course of his employment in such office, or to money paid without delay into an account subject to public or official audit;

"firm" (律師行) means a sole practitioner or a partnership of 2 or more solicitors, carrying on the business of practising as a solicitor;

"practice year" (執業年度) means a period of 12 months ending on 31 October each year;

"principal" (主管) means a sole practitioner or partner of a firm;

"solicitor" (律師) includes a solicitor of the Court, a firm of solicitors, a solicitor corporation, a foreign lawyer and a foreign firm;

"solicitor-trustee" (受託人律師) means a solicitor who is a sole trustee or who is co-trustee only with a partner, clerk or servant of his or with more than one of such persons;

"trust money" (信託款項) means money held or received by a solicitor or a firm which is not client's money and which is subject to a trust of which the solicitor or his firm is a trustee, whether or not he is solicitor-trustee of such trust.

3. Qualifications of accountant

- (1) An accountant shall be qualified to give an accountant's report on behalf of a firm, in accordance with the provisions of section 8 of the Ordinance if-
 - (a) he is a certified public accountant (practising) as defined in the Professional Accountants Ordinance (Cap. 50);
 - (b) he has neither been at any time during the accounting period, nor subsequently, before giving the report, become a partner, clerk or servant of such firm or of any partner of such firm; and
 - (c) he is not subject to notice of disqualification under paragraph (2).
- (2) If either-
 - (a) the accountant has been found guilty by the Disciplinary Committee appointed under section 33 of the Professional Accountants Ordinance (Cap. 50) of professional misconduct or dishonourable conduct; or
 - (b) the Council is satisfied that a firm has not complied with the provisions of the Solicitors' Accounts Rules (Cap. 159 sub. leg. F) in respect of matters not specified in an accountant's report and that the accountant was negligent in giving such report,

the Council may at any time notify the accountant concerned that he is not qualified to give an accountant's report, and the Council may give notice of such fact to any firm on whose behalf he may have given an accountant's report, and after such accountant shall have been so notified, unless and until such notice of disqualification shall have been withdrawn by the Council, the accountant shall not be qualified to give an accountant's report:

Provided that in coming to its decision under this paragraph, the Council shall take into consideration any observations or representations made or given by the accountant or on his behalf by the professional body of which he is a member.

4. Duties of an accountant

- (1) With a view to the signing of an accountant's report an accountant shall -
 - (a) make a general test examination of the books of account of the firm;
 - (b) ascertain whether a client account is kept;
 - (c) make a general test examination of the bank passbooks and statements kept in relation to the firm's practice;

- (d) make a comparison, as at not fewer than 2 dates selected by the accountant, between-
 - (i) the liabilities of the firm to its clients and, if trust money has been paid into the client account under the Solicitors' Accounts Rules (Cap. 159 sub. leg. F), to the *cestuis que trustent*, as shown by its books of account, and
 - (ii) the balances standing to the credit of the client account; and
 - (e) ask for such information and explanations as he may require arising out of subparagraphs (a) to (d).
- (2) If in the performance of the duties required of him in paragraph (1) it appears to the accountant that there is evidence that the Solicitors' Accounts Rules (Cap. 159 sub. leg. F) have not been complied with or he becomes aware of any matter which appears to affect adversely any client account or any trust money held by the firm to a material extent, he shall include in the accountant's report signed by him such details of the contravention or matter.

5. Forms

All accountant's reports delivered by a firm under these rules shall be in accordance with Form 1 in the Schedule.

6. Exemption from requirement to deliver accountant's report

For the purposes of section 8(1) of the Ordinance, the circumstances in which it is not necessary to deliver an accountant's report to the Council for a practice year include (but are not limited to) the following -

- (a) the case of a solicitor who has not practised as a principal during any part of that year;
- (b) the case of a foreign lawyer who satisfies the Council, by statutory declaration, that the lawyer did not during any part of that year handle, hold or receive client's money.

7. (Repealed)

8. Accounting periods

- (1) A firm shall once in each practice year deliver to the Council an accountant's report containing the information prescribed by rules made by the Council under section 73(1)(b) of the Ordinance.

- (2) The firm shall deliver the accountant's report to the Council not more than 6 months (or the period prescribed by rules made under section 73(1)(b) of the Ordinance) after the accounting period specified in the report.
- (3) An accountant's report for a firm is taken to be delivered on behalf of all principals of the firm.
- (4) A firm is not required to deliver an accountant's report in the practice year in which it commenced business if it would result in a report being delivered for less than 1 month of practice.
- (5) Subject to paragraphs (6) and (7), a firm shall -
 - (a) deliver an accountant's report for the accounting period adopted by it and notified to the Society in accordance with the Solicitors' Practice Rules (Cap. 159 sub. leg. H);
 - (b) not adopt an accounting period which corresponds to the practice year; and
 - (c) not change an accounting period without the permission of the Council whose permission shall only be given in exceptional circumstances.
- (6) Where a firm commences business, the first accounting period for the firm -
 - (a) shall begin on the date on which it commenced business and shall end at the end of the accounting period adopted by the firm and notified to the Society in accordance with the Solicitors' Practice Rules (Cap. 159 sub. leg. H);
 - (b) may cover a period of less than 12 months; and
 - (c) shall in all other respects comply with the requirements of section 8(2) of the Ordinance.
- (7) Where a firm ceases business, the final accounting period for the firm -
 - (a) shall begin at the end of the accounting period specified in the preceding accountant's report or, where the firm commenced business in the same practice year in which it ceases business, on the day on which it commenced business, and shall end at the date on which the firm ceased business;
 - (b) may cover a period of less than 12 months; and
 - (c) shall in all other respects comply with the requirements of section 8(2) of the Ordinance.

9. Change in composition of firm

- (1) Where a solicitor ceases to be a principal in a firm but the remaining partners continue the firm's practice, the accountant's report delivered by the firm shall state the date on which the solicitor ceased to be a principal.
- (2) Where a solicitor commences to be a principal in an existing firm, the accountant's report delivered by the firm shall state the date on which the solicitor commenced to be a principal.
- (3) Where a solicitor is a principal in two or more firms -
 - (a) the firms shall each deliver an accountant's report;
 - (b) the accounting periods for the accountant's reports may overlap; and
 - (c) the accountant's reports shall in all other respects comply with section 8(2) of the Ordinance and these Rules.

10. Notices to solicitors

Every notice to be given by the Council under these rules to a solicitor or his firm shall be in writing under the hand of the Secretary and sent by registered post to the last address of the solicitor or his firm appearing in the Society's record, and, when so given and sent, shall be deemed to have been received by the solicitor or his firm within 48 hours of the time of posting.

11. Notices to accountants

Every notice to be given by the Council under these rules to an accountant shall be in writing under the hand of the Secretary and sent by registered post to the registered office of the accountant, and, where so given and sent, shall be deemed to have been received by the accountant within 48 hours of the time of posting.

12. Power of waiver

The Council shall have power to waive in writing any of the provisions of these rules, other than those of rule 3(2), in any particular case.

13. Transitional provision

The principal Rules in force prior to the commencement of these Rules shall continue to apply to an accountant's report delivered to the Council prior to such commencement.

SCHEDULE

FORM 1

[rule 5.]

ACCOUNTANT'S REPORT RULES
ACCOUNTANT'S REPORT

To: The Council
The Law Society of Hong Kong
3rd Floor, Wing On House
71 Des Voeux Road, Central, Hong Kong

1. Name of firm:
2. The firm does / does not* operate a branch office or offices.
3. Address of main office:
.....
.....
4. Address(es) of branch office(s), if any:
.....
.....
5. The firm is a sole proprietorship / a partnership*.
6. The period covered by this report:

Commences: Ends:
7. Full name(s) of sole proprietor or all partners: (attach additional sheet(s) if the space is not adequate)

.....
.....
8. If any of the partners commenced or ceased to be partners in the firm during the period covered by this report, complete the following:

Name: Date of commencing to be a partner:
.....

Name: Date of ceasing to be a partner:
.....
9. If this is the first or final accountant's report for the firm, complete the following –

For a first accountant's report:
(date of firm commencing business)
For a final accountant's report:
(date of firm ceasing business)

10. Accountant's statement:

In compliance with section 8 of the Legal Practitioners Ordinance and the Accountant's Report Rules, I have examined the books, accounts and documents of the firm produced to me and I certify that from my examination and from the explanations and information given to me -

- (1)(a) I am satisfied that during the accounting period the firm has complied with the provisions of the Solicitors' Accounts Rules;

OR*

- (b) I am satisfied that during the accounting period the firm has complied with the provisions of the Solicitors' Accounts Rules, except for -

- (i) trivial breaches due to clerical errors or mistakes in book-keeping, all of which were rectified on discovery and which I am satisfied did not result in any loss to any client;

- (ii) the matters set out in Schedule 1.*

- (2)(a) I am not aware of any matter which appears to affect adversely any client account or any trust money held by the firm to a material extent;

OR*

- (b) I am not aware of any matter which appears to affect adversely any client account or any trust money held by the firm to a material extent, except for those matters the details of which are set out in Schedule 2.

- (3) this is the final accountant's report for the firm which ceased to hold client's money on the day of *

11. Details of accountant -

Accountant's full name:

Firm name:

Address:
.....
.....

12. Accountant's signature:

13. Date:

* Delete whichever is not applicable.

SCHEDULE 1

SCHEDULE 2