



稅務局
香港九龍啟德協調道 5 號
稅務中心

INLAND REVENUE DEPARTMENT

INLAND REVENUE CENTRE
5 CONCORDE ROAD, KAI TAK,
KOWLOON, HONG KONG.

網址 Web site: www.ird.gov.hk

來函請寄「香港郵政總局信箱 132 號稅務局局長收」
ALL CORRESPONDENCE SHOULD BE ADDRESSED TO-

COMMISSIONER OF INLAND REVENUE
G.P.O. BOX 132, HONG KONG.

來函編號:

Your Ref.:

來函請敘明本局檔案號碼

IN ANY COMMUNICATION PLEASE QUOTE OUR FILE NO.

檔案號碼:

File No.: 91/1496

Helping Hand
1st Floor
12 Borrett Road
Hong Kong

電話:

Tel. No.: 2594 5446

傳真:

Fax No.: 2180 7446

電郵:

E-mail: taxinfo@ird.gov.hk

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Dear Sirs,

Review of Charitable Institutions & Trusts

Thank you for submitting the completed questionnaire.

After examination of the information furnished therein, I am satisfied that HELPING HAND continues to be a charitable institution or trust of a public character ("charity") within the meaning of section 88 of the Inland Revenue Ordinance (Cap. 112) ("the Ordinance"). Please note that the tax exemption, which relates to all taxes under the Ordinance, is subject to the conditions in the proviso to section 88 of the Ordinance.

Trade or Business

It is noted that your organisation has derived rental income, meal income and camp fees. The proviso to section 88 of the Ordinance provides that where a charity carries on a trade or business, the profits derived from such trade or business are exempt from tax **only if** –

- (a) the profits are applied solely for charitable purposes; and
- (b) the profits are not expended substantially outside Hong Kong; and
- (c) either
 - (i) the trade or business is exercised in the course of the actual carrying out of the expressed objects of the charity; or
 - (ii) the work in connection with the trade or business is mainly carried on by persons for whose benefit such charity is

established.

Accordingly, if a charity carries on a trade or business which does not fulfil all of the conditions under the proviso to section 88 of the Ordinance, any profits derived from such trade or business shall be chargeable to profits tax under section 14(1) of the Ordinance. In other words, the tax exemption under section 88 does not apply to profits derived from a trade or business not fulfilling the proviso to section 88.

Regarding the condition that a trade or business carried on by a charity is exercised in the course of the actual carrying out of its expressed objects, the trade or business must be directly related to the achievement of its expressed objects. Fund-raising activities that are not directly related to the achievement of its expressed objects (such as letting properties to tenants not belonging to specific service targets of the charity) **cannot** satisfy the proviso. The fact that the profits from a trade or business are applied for the charitable objects of the charity will not be sufficient to establish that all the conditions under section 88 of the Ordinance have been satisfied. Instead, it is the nature of the trade or business and whether it directly accomplishes the charity's objects that have a bearing on the question whether the trade or business is exercised in the course of the actual carrying out of the expressed objects of the charity. Further, a clear distinction should be drawn between a charity's objects (i.e. the charitable purposes that a charity is established to achieve) and its powers which support the operation of the charity and may incidentally facilitate the achievement of the objects (such as the power to lease out its properties).

For more details, please refer to the "Tax Guide for Charitable Institutions and Trusts of a Public Character" at the Department's website (https://www.ird.gov.hk/eng/pdf/tax_guide_for_charities.pdf).

Pursuant to section 51(2) of the Ordinance, a person (including a charity) chargeable to tax for a year of assessment is required to inform the Department in writing that the person is so chargeable not later than 4 months after the end of the basis period for that year of assessment unless the person has already been required to furnish a tax return. Besides, under section 60(1) of the Ordinance, the Department is empowered to raise an assessment and/or additional assessment on a person that is so chargeable if it has not been assessed or has been assessed at less than the proper amount within the year of assessment or within six years after the expiration thereof.

Business Registration

Please also note that if a charity carries on a trade or business and the profit derived from such trade or business is chargeable to profits tax under section 14(1) of the Ordinance, it will not be exempt from registration under section 16(1)(a) of the Business Registration Ordinance (Cap. 310) and is required to apply for business registration. Detailed requirements and procedures for business registration can be found at the Department's website (https://www.ird.gov.hk/eng/tax/bre_gen.htm).

Notification of Changes

The Department has to be informed **within one month** after –

- (a) the governing instrument of your organisation is altered;
- (b) the operation of your organisation is ceased; or
- (c) the name or address of your organisation is changed.

Subsidiary Bodies

If your organisation operates a subsidiary body to carry out charitable work, the name of the subsidiary body upon request can be included in the list of charitable institutions and trusts of a public character which are exempt from tax under section 88 of the Ordinance on the Department's website for donors to check whether their donations to the subsidiary body can be claimed for tax deduction. If the subsidiary body on the list is subsequently terminated, the Department has to be informed **within one month** of the date of termination. In this paragraph, a subsidiary body refers to a division which is not distinct from the charity and is governed by the charity's governing instrument under the charity's sole ownership and control (e.g. service unit or time-limited project).

Useful References

The Social Welfare Department, the Home Affairs Department, the Food and Environmental Hygiene Department and the Independent Commission Against Corruption have issued guidance on the best practices for charitable fund-raising activities. Please refer to the following links for information:

- "Good Practice Guide on Charitable Fund-raising" by the Social Welfare Department, Home Affairs Department, and Food and Environmental Hygiene Department
<https://www.gov.hk/en/theme/fundraising/guide/>
- "Best Practice Checklist - Management of Charities and Fund-raising Activities" by the Independent Commission Against Corruption
http://www.icac.org.hk/filemanager/en/content_218/fund_raising.pdf

The Narcotics Division of the Security Bureau has issued "An Advisory Guideline on Preventing the Misuse of Charities for Terrorist Financing". Please refer to the following links for information:

- (a) Guideline
https://www.nd.gov.hk/pdf/guideline_e_20180929.pdf
- (b) Appendix
https://www.nd.gov.hk/pdf/Appendix_e_20180929.pdf

For enquiries, please contact the relevant departments.

Yours faithfully,



(Miss KAM Wendy Hei-ting)
for Assessor
Charitable Donations Section

C.D.5 (09/2023)