



稅務局  
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稅務大樓

INLAND REVENUE DEPARTMENT  
REVENUE TOWER  
5 GLOUCESTER ROAD, WAN CHAI,  
HONG KONG.

網址 Web site: [www.ird.gov.hk](http://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: 91/8519

File No.:

Ark Eden Foundation Limited  
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Dear Sirs,

### Reinstatement of Tax Exemption under s.88 of the Inland Revenue Ordinance

I refer to your emails of 6 October 2022 and 25 November 2022.

In view of the information provided, I hereby reinstate the recognition of the Trust's tax-exempt status under section 88 of the Inland Revenue Ordinance ("the Ordinance") with effect from 1 April 2022. 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

Proviso to section 88 of the Ordinance provides that where a charitable institution or trust of a public character carries on a trade or business, the profits 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 institution or trust; or
  - (ii) the work in connection with the trade or business is mainly carried on by persons for whose benefit such institution or trust is established.

CDV (6/2016)

就本文件的要求及於本局處理你的個案的過程中提供個人資料屬自願性質。然而，如你未能提供充分資料，本局可能無法處理你的個案。本局會把你提供的資料，用於施行本局專責執行的法例。本局並可在法律授權或准許的情況下，向任何其他人士或機構披露／轉移該等資料的任何或全部內容。你有權要求查閱及改正你的個人資料，但屬《個人資料（私隱）條例》豁免披露的情況除外。如欲查閱或改正個人資料，請致函評稅主任（地址為香港郵政總局信箱132號），同時請註明你於本局的檔案號碼。

The provision of personal data required by this document and during the processing of your case is voluntary. However, if you do not provide sufficient information, the Department may not be able to process your case. The Department will use the information provided by you for the purposes of the Ordinances administered by it and may disclose/transfer any or all of such information to any other parties provided that the disclosure/transfer is authorised or permitted by law. Except where there is an exemption provided under the Personal Data (Privacy) Ordinance, you have the right to request access to and correction of your personal data. You should send such request in writing to the Assessor at GPO Box 132, Hong Kong and quote your file number in this Department.

A charitable institution or trust of a public character is subject to profits tax in respect of the profits derived from a trade or business unless all the conditions of the proviso to section 88 of the Ordinance are satisfied. The buying and selling of assets (e.g. landed properties, securities, etc.) for making profits may constitute an adventure in the nature of trade. 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](https://www.ird.gov.hk/eng/pdf/tax_guide_for_charities.pdf)).

Pursuant to section 51(2) of the Ordinance, a person (including a charitable institution or trust of a public character) 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.

### Business Registration

Please also note that if a charitable institution or trust of a public character carries on a trade or business and the profit from such trade or business is chargeable to profits tax, 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](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](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](https://www.nd.gov.hk/pdf/guideline_e_20180929.pdf)
- (b) Appendix  
[https://www.nd.gov.hk/pdf/Appendix\\_e\\_20180929.pdf](https://www.nd.gov.hk/pdf/Appendix_e_20180929.pdf)

For enquiries, please contact the relevant departments.

Yours faithfully,



(Ms LEUNG Kit-ying)

Assessor

Charitable Donations Section

