Dear Sirs,

**Review of Charitable Institutions & Trusts**

Thank you for the completed questionnaire.

After examination of the information furnished therein, I am satisfied that CHILD'S DREAM FOUNDATION LIMITED continues to be a charitable institution or trust of a public character within the meaning of section 88 of the Inland Revenue Ordinance ("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**

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.

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).

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).

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

- "Best Practice Checklist - Management of Charities and Fund-raising Activities" by the Independent Commission Against Corruption

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

(b) Appendix
https://www.nd.gov.hk/pdf/Appendix_e_20180929.pdf

For enquiries, please contact the relevant departments.

Yours faithfully,

(Ms CHAN Yuen)
for Assessor
Charitable Donations Section

C.D.5 (07/2020)