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INLAND REVENUE DEPARTMENT

REVENUE TOWER  
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HONG KONG.

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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: 91/7615

File No.:

Hong Kong Buddhist Compassion Charity  
Foundation Limited  
G/F, No.5 Hing Wong Bldg.,  
80 Shui Che Koon St.,  
Yuen Long, NT

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Dear Sirs,

### Review of Charitable Institutions & Trusts

Thank you for the return of the completed questionnaire and the subsequent correspondence.

After examination of the information furnished therein, I am satisfied that HONG KONG BUDDHIST COMPASSION CHARITY FOUNDATION LIMITED is still a charitable institution or trust of a public character within the meaning of section 88 of the Inland Revenue Ordinance ("the Ordinance"). The exemption from all taxes under the Inland Revenue Ordinance, notified in our letter of 23 February 2005, will continue.

### Notification of Changes

In order to ascertain the effect on your organisation's exemption status, please notify the Department if there is any alteration to the governing instrument of your organisation **within one month** of the date of change. Besides, to assist in updating your organisation's record, please inform the Department whenever your organisation's operation is ceased; your organisation's name or address is changed; a new subsidiary body is formed; or an existing subsidiary body is closed.

### Governing Instrument

A charity's governing instrument should generally contain the clause requiring members of its governing body to disclose material interest and not to vote in respect of a transaction, arrangement or contract in which they are so interested. It is noted that such clause is absent from your organisation's governing instrument. To promote the best practice, your organisation is invited to consider inserting such clause in its governing instrument. If your organisation intends to amend its governing

instrument to insert such clause, please provide a draft revised governing instrument with the amendments marked-up for our consideration.

### **Trade or Business**

Your attention is drawn to the proviso to section 88 of the Ordinance which provides that for the purpose of Profits Tax, if 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.

It should be noted that the dealing in assets (e.g. landed properties, securities, etc.) is by itself an adventure in the nature of trade. Unless such trading activities are carried out in the course of the actual carrying out of the expressed objects of a charitable institution or trust of a public character and provided that all other conditions in the proviso to section 88 of the Ordinance are satisfied, any profits derived therefrom by a charitable institution or trust of a public character should be subject to Profits Tax.

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 the proviso to section 88 of the Ordinance is applicable to that trade or business. Pursuant to section 51(2) of the Ordinance, any 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 he is so chargeable not later than 4 months after the end of the basis period for that year of assessment unless he has already been required to furnish a tax return.

### **Other 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:

- Guideline  
[https://www.nd.gov.hk/pdf/guideline\\_e\\_20180929.pdf](https://www.nd.gov.hk/pdf/guideline_e_20180929.pdf)
- 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,



(CHAN Kin-on)  
for Assessor  
Charitable Donations Section

C.D.5 (11/2018)