

L.N. 112 of 2020

Exemption from Salaries Tax and Profits Tax (Anti-epidemic Fund) Order

(Made by the Chief Executive in Council under section 87 of the Inland Revenue Ordinance (Cap. 112))

1. Application

This Order applies in relation to salaries tax and profits tax chargeable for the year of assessment commencing on 1 April 2019 and for all subsequent years of assessment.

2. Interpretation

In this Order—

Anti-epidemic Fund (防疫抗疫基金) means the fund established by the Declaration of Trust;

benefitted party (受惠方), in relation to a fund programme, means a person, or a class of persons, identified under the fund programme as the person, or the class of persons, to whom payments under the fund programme are to be made so that—

- (a) the person, or the class of persons, is provided with financial assistance or relief by way of the payments; or
- (b) because of the payments, the person, or the class of persons, is to provide assistance or relief to another person;

Declaration of Trust (《信託聲明書》) means the Declaration of Charitable Trust in respect of Anti-epidemic Fund made by The Financial Secretary Incorporated as the Trustee on 21 February 2020;

fund programme (基金項目)—see section 3(1);

fund purpose (基金目的)—see section 3(2);

profits tax (利得稅) means the profits tax chargeable under Part 4 of the Ordinance;

salaries tax (薪俸稅) means the salaries tax chargeable under Part 3 of the Ordinance.

3. **Meaning of *fund programme* and *fund purpose***

- (1) A fund programme is a programme set up for a fund purpose under the Anti-epidemic Fund that falls within the meaning of the definition of “Programmes” in Clause 2 of the Declaration of Trust.
- (2) A fund purpose is one of the purposes within the meaning of Clause 4 of the Declaration of Trust.
- (3) The English text of the relevant provisions of Clause 2 and the provisions of Clause 4 of the Declaration of Trust is reproduced in the English text of the Schedule. A Chinese translation of those provisions is set out in the Chinese text of the Schedule.

4. **Exemption**

Subject to section 5, if a person is, or belongs to, a benefitted party of a fund programme, the person is exempt from the payment of salaries tax and profits tax in respect of sums received by, or accrued to, the person under the fund programme.

5. **Sums not exempted under section 4**

- (1) The exemption given to a person under section 4 does not apply to sums that are received by, or accrued to, the person as receipts arising in or derived from Hong Kong

from a trade, profession or business carried on in Hong Kong.

- (2) The receipts mentioned in subsection (1)—
 - (a) include—
 - (i) proceeds of sale of goods;
 - (ii) consideration for provision of services; and
 - (iii) monies received from the letting, sub-letting or licensing of any premises or portion of any premises; but
 - (b) do not include sums deemed to be receipts arising in or derived from Hong Kong from a trade, profession or business carried on in Hong Kong only because they fall within the description of section 15(1)(c) of the Ordinance.
- (3) The sums mentioned in subsection (1) do not include any sums received by, or accrued to, a person under a matching arrangement of a fund programme.
- (4) In subsection (3)—

matching arrangement (配對安排) means matching a financial commitment made by a person under a fund programme (excluding any financial commitment that is to be fully reimbursed under the fund programme), with reference to—

 - (a) a percentage of; or
 - (b) a ratio of,

the financial commitment.

Schedule

[s. 3]

Provisions of Declaration of Trust referred to in this Order

2. INTERPRETATION

...

“Programmes” includes grant of financial assistance, provision of relief, goods or services, works and projects (or a combination of any of them) and any other forms as approved by the Steering Committee;

...

4. PURPOSES

The Trustee shall hold the Trust Fund upon trust to apply the same at such times, in such manner, to such extent and subject to such conditions as the Trustee may determine in support of Programmes:

- (a) to enhance the capability of the Government as well as other relevant parties in combating the COVID-19 epidemic; and
- (b) to provide assistance or relief to enterprises and members of the public hard hit by the COVID-19 epidemic or are affected by the anti-epidemic measures.

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B2139

Wendy LEUNG
Clerk to the Executive Council

COUNCIL CHAMBER

26 May 2020

Explanatory Note

This Order exempts, subject to certain conditions, a person from the payment of salaries tax and profits tax chargeable under Parts 3 and 4 of the Inland Revenue Ordinance (Cap. 112) in respect of sums received by, or accrued to, the person under a fund programme of the Anti-epidemic Fund.