



Donations Tax:

Navigate Compliance with Confidence

IN COLLABORATION WITH



YOUR KEY TO THE TAX COMMUNITY

Agenda:

1. Understanding Donations Tax
2. Specific Considerations for Donations Tax
3. Practical Insights for Donations Tax
4. Public Benefit Organisation-specific Considerations

UNDERSTANDING DONATIONS TAX

Overview

- Section 54 of the Income Tax Act is the charging provision - donations tax is levied on the value of any property disposed of by means of a donation by a **South African tax resident**.
- Distinct, separate tax
- “Donation” means any gratuitous disposal of property including any gratuitous waiver or renunciation of a right -


➤ *Estate Welch v Commissioner for SARS*

the element which the common law regards as essential to a donation, namely, that the disposition be motivated by pure liberality or disinterested benevolence and not by self-interest or the expectation of a quid pro quo of some kind from whatever source it may come.

- Threshold of R100,000 for natural persons, and R10,000 for companies and trusts persons (included in exemptions)
- Other notable exemptions (see section 56(1) –
 - Bona fide maintenance of any person (Commissioner deems reasonable)
 - Benefit of donor's spouse (ante/post nuptial agreement/notarial contract)
 - Donor's spouse
 - *Donation mortis causa*
 - Donee will not obtain any benefit from the donation until the death of the donor
 - Cancelled within six months of taking effect
 - Right in property situated outside the Republic that was acquired by the donor under certain conditions
 - By or to various organisations including **Public Benefit Organisations**

- Donations tax levied at 20% for first R30,000,000 and at 25% for amounts exceeding R30,000,000
- Liability for donations tax (s 59) –
 - The donor BUT
 - Where donor fails to pay donations tax within **prescribed period**, both donor and donee become jointly and severally liable
- Prescribed period (s 60) –
 - Payable by the end of the month following the month in which the donation takes effect
 - If not, joint and several liability

- Submission of donations tax return (IT144) –



South African Revenue Service

**Income Tax - Donations Tax Declaration form
(IT144)**

Please include your proof of donations tax payment with the submission of this IT144

Is this a deemed donation in terms of section 7C? Y ☐ N ☒ Donor Donee

Particulars of Donor (Individual)

Personal Details

Surname

First Names

Other Name

Initials Date of Birth ID No. Taxpayer Ref No.

Passport No. Country where Passport was issued Passport Issue Date

Marital Status

First names of spouse, if married in community of property

Surname of Spouse ID No. of Spouse

If you are married in community of property, was the donation made out of the assets of the joint estate? Y ☐ N ☐ If YES, did your spouse complete and submit an IT144 regarding his/her share of the donation? Y ☐ N ☐ Taxpayer Ref No. of Spouse

Contact Details

Email Cell No.

Home Tel No. Bus Tel No.

Physical Address Details

Unit No. Complex (if applicable)

Street No. Street / Farm Name

Suburb / District

City / Town Country Code

Postal Code

IT144
EV 2025.03.00
01/04

Save

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Reset

Postal Address Details (if not the same as Physical Address Details)

Postal Agency or Other Sub-unit (if applicable) (e.g. Postnet Suite)

PO Box

☐ Private Bag

Other PO Special Service (specify)

Number

Post Office

Country Code

Postal Code

Donation details

Date of Donation

Description of donation, e.g. Cash, goods, shares, fixed property other, etc.

if Other Specify

How donated, e.g. Notarial deed, donation agreement, etc. (attach copy)

Provide details of the donation

Value of donation

R

Basis of evaluation, e.g. Market value, appraisement, etc. (attach proof of the valuation)

Particulars of other donations

Did you declare all donations previously made?

Y ☐N ☐

If NO, particulars regarding such donations must be submitted on a separate declaration form (IT144) with proof of payment.

Did you declare any other donations within the same year of assessment?

Y ☐N ☐**Declarations****Declaration**

I, the above-mentioned donor, hereby declare that the information furnished in this declaration is true and correct in every respect.

Date

For enquiries go to www.sars.gov.za or call 0800 08 7277

Please ensure you sign over the 2 lines of "X"s above

Self-Assessment calculation which will include a deemed donation (section 7C)

Value of Donation/Deemed Donation as per this Declaration

R

Add: Total value of other Donations/Deemed Donations made during the same year of assessment

R

Less: Total value of section 56(1) Exemptions applicable on all donations made during the same year of assessment

R

Less: Section 56(2) Annual Exemption for the same year of assessment

R

Total value of all taxable donations made during the same year of assessment (including this donation)

R

Accumulated value of all taxable donations made as from 1 March 2018 multiplied with applicable rates (a) and (b):

(a) First R30 million at 20%

R

(b) Above R30 million at 25%

R

Total Donations Tax Payable as from 1 March 2018 (including this donation)

R

Less: Donations Tax already paid as from 1 March 2018 (excluding donations tax to be paid on this donation)

R

Donations Tax now payable by Donor

R

[Save](#)[Print](#)[Reset](#)**Donee: Company / Close Corporation Particulars****Company / Close Corporation Details**

Registered Name			
Trading Name			
Public Officer's Name			
Is this donation in respect of a branch / permanent agency of a foreign company?	Y <input type="checkbox"/>	N <input type="checkbox"/>	Residency for income tax purposes (e.g. South Africa = ZAF) <input type="text"/>
Company / CC Reg No.	<input type="text"/>	Financial Year End <input type="text"/>	Taxpayer Ref No. <input type="text"/>

Company / Close Corporation Contact Details

Email	<input type="text"/>	Cell No.	<input type="text"/>
Home Tel No.	<input type="text"/>	Bus Tel No.	<input type="text"/>

Other entity (association, club, etc.) Details

Registered Name			
Trading Name			
Taxpayer Ref No.	<input type="text"/>		

Chairperson's / Managing Executive Contact Details

Email	<input type="text"/>	Cell No.	<input type="text"/>
Home Tel No.	<input type="text"/>	Bus Tel No.	<input type="text"/>

Physical Address Details

Unit No.	<input type="text"/>	Complex (if applicable)	<input type="text"/>
Street No.	<input type="text"/>	Street / Farm Name	<input type="text"/>
Suburb / District	<input type="text"/>		
City / Town	<input type="text"/>	Country Code	<input type="text"/>
Postal Code	<input type="text"/>		

Save

Print

Reset

Postal Address Details (If not the same as Physical Address Details)

Postal Agency or Other Sub-unit (if applicable) (e.g. Postnet Suite)

PO Box ☐ Private Bag ☐ Other PO Special Service (specify) Number

Post Office Country Code

Postal Code

Declarations

Declaration

I, the above-mentioned donee, hereby declare that the information furnished in this declaration is true and correct in every respect.

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Please ensure you sign over
the 2 lines of 'X's above

Date

For enquiries go to www.sait.gov.za or
call 0830 08 7277

SPECIFIC CONSIDERATIONS FOR DONATIONS TAX

- Below-market value transactions

Transferring assets at less than market value, such as selling property to a family member at a discounted price, can be considered a deemed donation. SARS may assess Donations Tax on the difference between the market value and the transaction price.

- Interest-free loans to trusts

Providing interest-free or low-interest loans to trusts is a common area of concern. The difference between the interest charged and the official market rate is treated as a deemed donation, potentially leading to ongoing Donations Tax liabilities.

- Non-cash donations

Donations of goods (e.g. art, vehicles, crypto assets) may go undeclared or are undervalued.

- Use of a loan account and donations waiver under exemption

A lender may, as an example, loan R1,000,000 to a borrower, and write off R100,000 per year, ultimately reducing the loan account to nil

Loan balance	:	R1,000,000
Year 1	:	<u>-R100,000</u>
Balance	:	R900,000
Year 2	:	<u>-R100,000</u>
Balance	:	R800,000
...		
Year 10	:	<u>-R100,000</u>
Balance	:	R0.00

NB: bona fides of the loan

SARS may see this as an avoidance scheme

PRACTICAL INSIGHTS FOR DONATIONS TAX

- Importance of timeously filing Donations Tax returns
- Payments on behalf of others
 - ✓ Settling someone else's debt can be seen as a donation if no repayment obligation exists
 - ✓ SARS may check third-party payments flagged in bank account audits or source-based information
- Payments received from others
 - SARS may classify receipts as income, where they were received as donations, leading to additional assessments, penalties, and possibly the requirement to engage in a dispute process

- Section 102 of the Tax Administration Act, No. 28 of 2011 (Onus of Proof)

“102. Burden of proof.—(1) A taxpayer bears the burden of proving—

(a) that an amount, transaction, event or item is exempt or otherwise not taxable;

(b) that an amount or item is deductible or may be set off;

(c) the rate of tax applicable to a transaction, event, item or class of taxpayer;

(d) that an amount qualifies as a reduction of tax payable;

(e) that a valuation is correct; or

(f) whether a ‘decision’ that is subject to objection and appeal under a tax Act, is incorrect.

(2) The burden of proving whether an estimate under section 95 is reasonable or the facts on which SARS based the imposition of an understatement penalty under Chapter 16, is upon SARS.”

PUBLIC BENEFIT ORGANISATION-SPECIFIC CONSIDERATIONS

- Non-profit companies/charities etc at risk of donations being subject to income tax (not automatically tax exempt)
- Hence, Public Benefit Organisation (PBO) tax exemption under section 30
 - Approval by Commissioner (very strict and must satisfy each year)
 - Public benefit activity as defined (Ninth Schedule)

Welfare and Humanitarian

Health Care

Land and Housing

Education and Development

Religion, Belief or Philosophy

Cultural

Conservation, Environment and Animal Welfare

Research and Consumer Rights

Sport

Providing of Funds, Assets or Other Resources

General

Office
Head Office

Enquiries
William Molotsi

Telephone
012 483 1700

Facsimile
010 208 3301

PBO Reference No.
[REDACTED]

Income Tax Reference No.
[REDACTED]

Date
[REDACTED]

271 Veale Street
Brooklyn, Pretoria
PO Box 11955, Hatfield, 0028
Tel: +27 (12) 483-1700
www.sars.gov.za
teu@sars.gov.za

Dear Sir / Madam

INCOME TAX EXEMPTION APPROVED: [REDACTED]

The South African Revenue Service (SARS) would like to confirm that your application for exemption from income tax has been approved as it meets the requirements of a Public Benefit Organisation (PBO) set out in section 30(3) of the Income Tax Act No 58 of 1962 (the Act). Your Income Tax Exemption has been granted in terms of section 10(1)(cN) of the Act with effect from 13 April 2022. Annual receipts and accruals will therefore be subject to the provisions of section 10(1)(cN) of the Act and accruals and receipts from trading or business activities which fall outside the parameters of section 10(1)(cN) will be subject to tax.

The following exemptions also apply and are limited to:

1. The public benefit organisation has been approved for purposes of section 18A(1)(a) of the Act and donations to the organisation will be tax deductible in the hands of the donors in terms of and subject to the limitations prescribed in section 18A of the Act with effect from 06 September 2023.
2. Donations made to or by the PBO are exempt from Donations Tax in terms of section 56(1)(h) of the Income Tax Act.
3. Exemption from the payment of Estate Duty in terms of section 4(h) of the Estate Duty Act No.45 of 1955.
4. Exemption from payment of the Skills Development Levy (SDL) in terms of section 4(c) of the Skills Development Levies Act No. 9 of 1999.

The organisation has been approved for the following public benefit activity

- The provision of health care services to poor and needy persons.

In order to maintain your exempt status, the following conditions must be complied with:

1. Amend the founding documents to comply with the requirements of section 30 of the Income Tax Act, the following clauses must be added –

- a) No activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the organisation otherwise than by way of reasonable remuneration.
- b) The funds of the public benefit organisation will be used solely for the objects for which it was established
- c) At least three persons will accept fiduciary responsibilities for the public benefit organisation. They will not be connected persons in relation to each other, and no single person directly or indirectly controls the decision making powers relating to such an organisation.
- d) No funds will be distributed to any person (other than in the course of undertaking any public benefit activity).
- e) Dissolution clause must be amended to state that up on dissolution of the public benefit organisation, the remaining assets must be transferred to:
 - Another public benefit organisation which has been approved in terms of section 30 of the Act.
 - Any institution, board or body which is exempt from payment of income tax in terms of section 10(1)(cA)(i) of the Act, which has as its sole or principal object the carrying on of any public benefit activity; or
 - Any department of state or administration in the national or provincial or local sphere of government of the Republic contemplated in section 10(1)(a) or (b) of the Act.
- f) A copy of all amendments to the constitution will be submitted to the Commissioner for the South African Revenue Service.
- g) The public benefit organisation will not be party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as a part of any transaction, operation or scheme of which the sole or main purpose is the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the commissioner.
- h) No resources will be used, directly or indirectly, to support advance or oppose any political party.

A copy of the amended founding documents incorporating the above must be submitted to this office within 6 months on receipt of the approval letter.

The following options are available to you for the submission of the information:

- Electronically via e-mail to teu@sars.gov.za
- Nearest SARS Branch Office

2. When issuing a tax deductible receipt it must include the following information:

- a) The reference number (the PBO number quoted on this letter).
- b) The date of the receipt of the donation.
- c) The name and address of the organisation issuing the receipt to which enquiries may be directed.

- d) The name and address of the donor.
 - e) The amount or nature of the donation if not in cash.
 - f) Certification that the receipt is issued for the purpose of section 18A and that the donation will be used exclusively for the activities which are approved for section 18A purposes.
 - g) The receipt must be issued in the year when the donation is received by the organisation approved for purposes of section 18A.
 - h) Donor nature of person (natural person, company, trust, etc.);
 - i) Donor identification type and country of issue (in case of a natural person);
 - j) Identification or registration number of the donor;
 - k) Income tax reference number of the donor (if available);
 - l) Contact number of the donor;
 - m) Electronic mail address of the donor;
 - n) A unique receipt number; and
 - o) Trading name of the donor (if different from the registered name).
2. Furthermore, given the S18A approval granted, you must submit with your annual tax return, audit certificate stating that 18A funds for which 18A certificate were issued are utilised for 18A activities and supporting documentation which include the full particulars of all the receipts issued in respect of deductible donations and how these funds were spent.
 3. Submit an annual Income Tax Return (IT12EI) by the due date via SARS eFiling or manually. Your IT12EI can be obtained by
 - o Registering online at www.sarsefiling.co.za to access, request and submit the IT12EI electronically
 - o Calling the SARS Contact Centre on 0800 00 SARS (7277)
 - o Requesting an IT12EI by contacting the TEU on teu@sars.gov.za or calling (012) 483 1700
 - o Requesting an IT12EI by visiting your local SARS branch.
 4. Tax deductible receipts may only be issued for *bona fide* donations. Refer to Annexure A for more information in this regard.
 5. The exemption approval as contained in this letter is subject to review on an annual basis by the TEU upon receipt of annual income tax return and S18A supporting documentation.
 6. SARS must be informed in writing within 21 working days of any change in registered particulars (e.g. representative, change of name, address, trustee details, office bearers, etc.).

For further information or assistance, email your query to teu@sars.gov.za, visit the SARS website www.sars.gov.za, call the TEU on 012 483 1700 or visit the TEU offices. Kindly ensure that you have your ID and tax reference number on hand to enable SARS to assist you.

Sincerely



William Molotsi
Tax Exemption Unit

ISSUED ON BEHALF OF THE COMMISSIONER FOR THE SOUTH AFRICAN REVENUE SERVICE

Annexure A: Information pertaining to S18A donations

What is considered a *bona fide* donation for S18A purposes?

A *bona fide* donation is a voluntary, gratuitous gift disposed of by the donor out of liberality or generosity, where the donee is enriched and the donor impoverished. There may be no *quid pro quo*, no reciprocal obligations and no personal benefit for the donor. If the donee gives any consideration at all it is not a donation. The donor may not impose conditions which could enable him or any connected person in relation to himself to derive some direct or indirect benefit from the application of the donation.

Examples of what does NOT constitute a *bona fide* donation for purposes of section 18A?

1. Donation of services rendered such as a professional person renders a skill free of charge.
2. An amount paid for attending a fundraising dinner, dance or charity golf day.
3. The amount paid for the successful bid of goods auctioned to raise funds by an organisation and Memorabilia, paintings, etc, donated to be auctioned to raise funds
4. Amounts paid for raffle or lottery tickets.
5. Amounts paid for school fees, entrance fees for school admittance or compulsory school levies.
6. Value of free rent, water and electricity provided by a lessor to the lessee which is an approved PBO.
7. Payments in respect of debt due

- Tax Exemption Unit applies these approval rules strictly
- Additional material –
 - Tax Exemption Guide for Public Benefit Organisations in South Africa (Issue 7), 18 March 2025
 - SARS website: <https://www.sars.gov.za/businesses-and-employers/tax-exempt-institutions/public-benefit-organisations/>
 - EI1 – Application for Exemption from Income Tax – External Form
 - EI2 – Public Benefit Organisation Written Undertaking – External Form

*****NB: Although PBOs have tax exemption status, this does not automatically mean that all receipts will be exempt from income tax i.e., not all receipts of a PBO are automatically donations**

e.g., reciprocal obligation in exchange for “grant”

- In addition to tax exemption status, section 18A provides for deductions for donors
- Section 18A(1)(a)(ii) –

a taxpayer deduct the sum of any bona fide donations, in cash or kind, which was actually paid or transferred during the year of assessment, to any “public benefit organisation contemplated in paragraph (a) (i) of the definition of ‘public benefit organisation’ in section 30 (1) approved by the Commissioner under section 30”.

- E.g., loan granted to PBO and lender elects to subsequently write off loan – not clear whether 18A would be achieved as it was not actually paid
- Deduction is **limited** to 10% of taxable income before allowing a deduction under section 18A or 6quat(1C)
- To claim deduction, donee must be able to produce section 18A certificate/receipt issued by PBO

- Third Party (IT3(d)) Reporting by PBOs – SARS “cross-verification”
- ***Applies to public benefit organisations***
 - ✓ S18A approved (only)
 - ✓ Receiving donations
 - ✓ Issuing S18A receipts in respect of donations being received
- For more information, see SARS FAQs

- Value-Added Tax (“VAT”) considerations for PBOs
 - Income tax exemption does not affect VAT obligations
 - Different dispensation on VAT for PBOs (and welfare organizations, as defined)
 - Supplies made for no consideration (see Interpretation Note 70) – nil output tax but deduction of input tax
 - Generally, PBOs would be eligible for input tax deductions (assist with cash flow, often donor contracts provide that donations not to be used to pay tax)

THANK YOU

