



# MoneyTalk

## Donations & Tax

Donation Tax is payable by any individual living in the Republic of South Africa, or any South African company or one managed and controlled in the Republic, on the value of any gratuitous disposal of property including the disposal of property for inadequate consideration and the renunciation of rights.

### Principal Exemptions

- Donations between husband and wife
- Donations to charitable, ecclesiastical and educational institutions, and certain public bodies in the Republic of South Africa as approved by the Minister of Finance
- Casual donations of up to R10000 per year by persons other than natural persons
- Donations by natural persons on or after 1 March 2002 not exceeding R30000 per year
- The donations of assets situated outside the Republic subject to certain conditions

### Rates

Donation Tax is payable within 3 months after the donation, at a flat rate of 20% on all donations on or after 1 October 2001.

### Donations Tax and your Tax Returns

Within 3 months from the date you make a donation you must submit a special return (IT144) in duplicate to the local SARS office, whether or not the donation is exempt from tax. SARS will determine the amount of tax payable, if any. A return is not required for casual gifts not totalling more than R5000 in any one tax year or for reasonable contributions towards the maintenance of dependants.

### Annual Donation of Loan Accounts to Trust

The practice of donating the annual exempt R30000 of a loan account to a Trust will trigger Capital gains Tax (CGT) [effective rate 20%]. In order to prevent this the Trust must actually receive this donation and actually repay the loan account.

### TAX DEDUCTIBLE DONATIONS

Donations are not ordinarily deductible for income tax purposes. A special deduction exists, allowing to be deducted from a taxpayer's taxable income so much of bona fide donations made by a taxpayer in cash or of property made in kind and actually paid or transferred during the tax year to a

qualifying recipient. The deduction allowed with effect from the commencement of the tax years ending on or after 1 January 2004 is the sum of such donations but may not exceed 5% of the taxpayers taxable income as calculated before this deduction or any deduction for medical, dental and disability expenses.

### Who are the qualifying recipients?

**Approved Public Benefit Organisations (PBO):** A PBO approved by the Commissioner for SARS. This recipient of deductible donations is required to be carrying on a public benefit activity in South Africa.

**Section 10(1)(cA)(i) entity:** These are bodies established under law for the furtherance of its sole or principal object to conduct research or provides services to members of the general public or carries on activities including rendering of financial assistance

**Approved feeder PBO:** This type of entity is required to provide funds or assets to any approved PBO

**Approved group Section 10(1)(cA)(i) body:** A group, approved by the Commissioner, of institutions boards or bodies

**Governmental and other public bodies**

### Proof of payment

A claim for deduction will not be allowed unless it is supported by a receipt issued by the qualifying recipient.

This must show:

- The recipient special tax reference number issued by the Commissioner
- The date of receipt of the donation
- The recipient name and address to which enquiries may be directed
- The donor's name and address
- The amount of, or if not made in cash, the nature of the donation
- A certification recording the facts that the receipt is issued for the purposes of deduction under the relevant provision of the Income Tax Act and that the donation has been or will be used exclusively for the recipient object or, in the case of PBO's, solely in carrying on qualifying public benefit activities

### CONCLUSION

Donations, a complex aspect, can be a very useful tax planning tool when correctly applied.

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