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Income tax Reference
2412391175

PBO number
930053007

Date
2016.07.14

The Public Officer
THE GARY KIRSTEN FOUNDATION
PO BOX 1955
CAPE TOWN
8000

South African Revenue Service

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

APPLICATION FOR INCOME TAX EXEMPTION APPROVED: THE GARY KIRSTEN FOUNDATION.

The South African Revenue Service (SARS) would like to confirm that your application for exemption from income tax has been approved as you meet 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 effective from 24/03/2014. 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.(18A is effective from 14/07/2016)
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.

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

1. Amend the founding document to incorporate the following requirements of section 30 of the Income Tax Act :
 - i. 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.

- II. At least three persons who accept fiduciary responsibility for the public benefit organisation, 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 organisation.
- III. No funds will be distributed to any person (other than in the course of undertaking any public benefit activity).
- IV. No donation will be accepted which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public benefit activity) may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
- V. No remuneration will be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.
- VI. The public benefit organisation will not be a party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as 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.
- VII. No resources will be used, directly or indirectly, to support advance or oppose any political party.

A signed copy of the amended founding document must be submitted to the Tax Exemption Unit (TEU) within 12 months by:

- I. Scanning and emailing the document to teu@sars.gov.za or
 - II. Posting these to: PO Box 11955, Hatfield, 0028.
2. When issuing a tax deductible receipt it must include the following information:
- I. The reference number (the PBO number quoted on this letter).
 - II. The date of the receipt of the donation.
 - III. The name and address of the organisation issuing the receipt to which enquiries may be directed.
 - IV. The name and address of the donor.
 - V. The amount or nature of the donation if not in cash.

- VI. 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.
 - VII. The receipt must be issued in the year when the donation is received by the organisation approved for purposes of section 18A.
3. Submit an annual Income Tax Return (IT12EI) by the due date via SARS e-Filing or manually. Your IT12EI can be obtained by
 - I. Registering online at www.sarsefiling.co.za to access, request and submit the IT12EI electronically
 - II. Calling the SARS Contact Centre on 0800 00 SARS (7277)
 - III. Requesting an IT12EI by contacting the TEU on teu@sars.gov.za or calling (012) 483 1700
 - IV. Requesting an IT12EI by visiting your local SARS branch.
 4. Furthermore, given the section 18A approval granted, you must submit with your annual tax return, audit report, a statement and supporting documentation which include the full particulars of all the receipts issued in respect of deductible donations and how these funds were spent.
 5. 18A is limited to the allocation of bursaries and cannot be used for any donations received in respect of allocation of sport facilities and equipment.
 6. Equipment and facilities must be provided only to organisations approved for Income Tax Exemption in terms of Section 30, Section 10(1)(cA) or the government.
 7. Tax deductible receipts may only be issued for *bona fide* donations. Refer to Annexure A for more information in this regard.
 8. 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 section 18A supporting documentation.
 9. SARS must be informed in writing within 21 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

Lucky Moticoe
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
8. Tithes