



TAX EXEMPTION UNIT

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Our Reference No.
UM/0119/11/05

Rev. W.J. Botha
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"NG MAATSKAPLIKE
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South African Revenue Service

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correspondence with TEU.

November 2005

Dear Sir

**EXEMPTION FROM TAXES AND DUTIES AND SECTION 18A APPROVAL:
"NG MAATSKAPLIKE DIENSTE (VRYSTAAT)"**

Your application for exemption from income tax refers.

1. It is confirmed that:-

- 1.1 the association has been approved as a public benefit organisation in terms of section 30 of the Income Tax Act (the Act) and the receipts and accruals are exempt from income tax in terms of section 10(1)(cN) of the Act;
- 1.2 the public benefit organisation has been approved for purposes of section 18A(1) (a) of the Act and donations to the organization 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;
- 1.3 donations by or to the public benefit organisation are exempt from donations tax in terms of section 56(1)(h) of the Act;
- 1.4 bequests or accrua's from the estates of deceased persons in favour of the public benefit organisation are exempt from the payment of estate duty in terms of section 4(h) of the Estate Duty Act, 45 of 1955; and
- 1.5 in terms of section 4(1)(f) of the Stamp Duties Act, 1968, any instrument which is executed by or on behalf of the public benefit organisation is exempt from stamp duty, if the duty thereon would be legally payable and borne by the public benefit organisation.

2. Kindly note that the exemptions and approval is subject to the following conditions..

2.1 The exemptions and approval will be reviewed annually on receipt of annual returns of income and accounts, together with the annual financial statements, which must be submitted to the Tax Exemption Unit. Furthermore, a statement and supporting documentation which must include full particulars of the receipts issued in respect of deductible donations in terms of section 18A and how these funds were expended must also be submitted.

2.2 The public benefit organisation may not issue tax deductible receipts i.r.o. any donation to the extent that the donation will be utilised in carrying on the approved public benefit activity listed in paragraph 3(c), Part I of the Ninth Schedule to the Act, namely:

"The provision of residential care for retired persons, where –

- (i) more than 90 per cent of the persons to whom the residential care is provided are over the age of 60 and nursing services are provided by the organisation carrying on such activity; and
- (ii) residential care for retired persons who are poor and needy is actively provided by that organisation without full recovery of cost."

2.3 The public benefit organisation may only issue tax deductible receipts in respect of any donation to the extent that the donation will be utilised solely in carrying on the activities contemplated in Part II of the Ninth Schedule to the Act, namely:

Paragraph 1(a): "The care or counselling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.

Paragraph 1(e): The rescue or care of persons in distress.

Paragraph 1(g): Rehabilitative care or counselling of prisoners, former prisoners and convicted offenders and persons awaiting trial.

Paragraph 1(l): The promotion or protection of family stability.

Paragraph 4(o): Provision of scholarships, bursaries and awards for study, research and teaching on such conditions as prescribed by the Minister by way of regulation in the Gazette."

2.4 The public benefit organisation must together with its annual return for a year of assessment submit to the Commissioner an audit certificate confirming that all donations received or accrued in that year in respect of which tax deductible receipts were issued were utilised in the manner contemplated in 2.3 above.

2.5 The rental income received by the public benefit organisation falls within the definition of "trade" in section 1 of the Act. The proviso to section 10(1)(cN)(ii)(dd) states that the activity must not exceed the greater of :

(i) 5 percent of the total receipts and accruals of that public benefit organisation during a relevant year of assessment; or

(ii) R50 000.

Therefore, it must be noted that the organisation will be allowed to retain the trading asset, but will become liable to payment of income tax in excess of the above mentioned provisions of the Act in any year of assessment commencing on or after 1 April 2006.

2.6 The following information must be given on the tax deductible receipts issued:

2.5.1 the reference number of the public benefit organisation, issued by the Commissioner for the purposes of this section; (the reference number quoted on this letter.)

2.5.2 the date of the receipt of the donation;

2.5.3 the name of the public benefit organisation, which received the donation, together with an address to which enquiries may be directed in connection therewith;

2.5.4 the name and address of the donor;

2.5.5 the amount of the donation or the nature of the donation (if not made in cash); and

2.5.6 a certification to the effect that the receipt is issued for the purposes of section 18A of The Income Tax Act, 1962, and that the donation has been or will be used exclusively for the object of the public benefit organisation concerned.

Please note that the Tax Exemption Unit is a dedicated national office that has been established by the Commissioner to provide a quality service to all our clients. Should you therefore have any further queries pertaining to tax exemption matters, please do not hesitate to revert to the undersigned at your earliest convenience.

Yours faithfully


U.F.R. Muller (Mrs.)
Tax Exemption Analyst