

WHAT QUALIFIES FOR SECTION 18 A CERTIFICATE?

(Ref SARS Website Please see [link](#) for more)

Donations

A donation is a voluntary gift freely given by the donor out of liberality or generosity to a donee. Through the giving of a donation, the donor (the person giving the donation) is impoverished and the donee (the person receiving the donation) enriched. There must be no conditions or obligations attached to a donation and no personal benefit for the donor. If a donee gives any consideration in exchange, it is not a donation.

10.1 Types of donation

A donation can be in the form of cash or of property in kind that was actually paid or transferred by the donor to the donee in a year of assessment.

10.1.1 Cash

A donation may be made in cash (money), that may include payments by electronic fund transfer (EFT), credit or debit card, or postal order.

The following payments or transfers are non-exhaustive examples of payments or transfers that are not donations and do not qualify for a deduction under section 18A:

- Amounts paid to attend a fundraising event such as a dinner or charity golf day.
- Memorabilia and other assets donated to be auctioned to raise funds.
- Amounts paid for school fees, school entrance fees or compulsory school levies.
- Amounts paid for raffle or lottery tickets.
- Amounts paid for the successful bid for goods auctioned to raise funds.
- The value of free rent, water and electricity provided by a lessor to the lessee that is a section 18A-approved organisation.
- Payments of debt owed by a section 18A-approved organisation, for example, the cost of repairs to a section 18A-approved organisation's vehicle paid to the service station on behalf of that organisation and not paid directly to the section 18A-approved organisation.
- Prizes and sponsorships donated for a fundraising event such as a charity golf day.
- Tithes and offerings to churches or other faith-based organisations in support of their religious activities.
- Membership fees.
- Promissory notes.
- Pledges.
- Payments made in future instalments and post-dated cheques.
- Payments for the purchase of poker chips at a fundraising poker event or the payment for additional poker chips for an amount in excess of the value of the prizes won at each poker table.

10.1.2 Property in kind

A donation of property in kind is made in a form other than cash. Donations of property made in kind may include the following:

- A financial instrument provided it is –
 - – a share in a listed company; or
 - – issued by an “eligible financial institution” as defined in section 1 of the Financial Sector Regulation Act 9 of 2017 (this includes, for example, a financial institution licensed or required to be licensed as a bank under the Banks Act 94 of 1990, a financial institution registered as a long-term insurer under the Long-term Insurance Act 52 of 1998 or a short-term insurer under the Short-term Insurance Act 53 of 1998 or licensed or required to be licensed under the Insurance Act 18 of 2017 and market infrastructure).
- Trading stock forming part of the business or trade conducted by the taxpayer. Such trading stock may include livestock or produce donated by a farmer, goods such as computers, foodstuffs, furniture, medical supplies and motor vehicles.
- An asset used by the taxpayer in conducting the taxpayer’s trade but that is not trading stock. Examples of such assets include cash registers, computers, crockery, delivery vehicles, furniture, garden equipment, kitchen utensils and office equipment.
- An asset that is not trading stock and is not used in the business of the taxpayer. For example, such assets may include personal assets or assets bought by the taxpayer such as computers, furniture, sport equipment and vehicles.
- Property purchased, manufactured, erected, installed or constructed by or on behalf of the taxpayer. Examples of such property include carpets or cupboards installed, security fencing and buildings such as classrooms erected by or on behalf of the taxpayer for purposes of conducting any PBA in Part II.

A donation of property in kind must be used by the section 18A-approved organisation in carrying on any PBA in Part II in South Africa.

The Act specifies how the values to be placed on donations of property in kind must be determined. A specific formula must be used to determine the amount of any deduction claimed by any taxpayer under section 18A for any donation of immovable property of a capital nature when the lower of market value or municipal value exceeds cost. See the *Tax Exemption Guide for Public Benefit Organisations in South Africa* for more detail.

No deduction will be allowed for any donation of any property in kind that –

- constitutes or is subject to any fiduciary right, usufruct or other similar right; or
- constitutes an intangible asset or financial instrument, unless the financial instrument meets the requirements described above.

The donation of a service such as time, skill or effort to a section 18A-approved organisation will not qualify as a deduction for purposes of section 18A, since a service is not a donation of property made in kind. For example, a professional person such as an auditor, accountant, artist (including a singer, musician or entertainer), electrician, lawyer, medical doctor or plumber

who renders a service free of charge to a section 18A-approved organisation will not be entitled to a tax deduction for the value of the service.

Basic Guide to Section 18A Approval (Issue 3) 12

11. Section 18A receipts

A section 18A receipt may be issued only for an eligible donation (see **10**) that is solely and exclusively used for PBAs in Part II (see **5**) in South Africa.

A section 18A receipt will be valid if it contains the following detail:

- The reference number issued to the section 18A-approved organisation by the Commissioner for purposes of section 18A.
- The date the donation is received.
- The name and address of the section 18A-approved organisation issuing the section 18A receipt to which enquiries may be directed.

- The name and address of the donor.
- The amount of the donation if in cash.
- The nature of the donation and the value of the donation (see **10.1.2** and the example of a section 18A receipt in Annexure F) if not in cash.
- A certification to the effect that the receipt is issued for purposes of section 18A and that the donation has been or will be used exclusively for the objects of the PBO, conduit PBO, institution, board or body, agency, programme, fund, High Commissioner, office, entity or organisation concerned or, in the case of a department in carrying on the relevant PBA in Part II.