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3669451175

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THE PUBLIC REPRESENTATIVE

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Dear Sir / Madam

INCOME TAX EXEMPTION APPROVED: FUNDI FOUNDATION TRUST

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 with effect from 01 July 2020. 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.

Community development for poor and needy persons and anti-poverty initiatives, including —

- (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development or anti-poverty;
- (ii) the provision of training, support or assistance to community-based projects contemplated in item (i); or
- (iii) the provision of training, support or assistance to emerging micro enterprises to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister by way of regulation.

Training for unemployed persons with the purpose of enabling them to obtain employment

The provision of school buildings or equipment for public schools and educational institutions engaged in public benefit activities contemplated in subparagraphs (a) to (h).

Career guidance and counseling services provided to persons attending any school or higher education institution as envisaged in subparagraphs (a) and (b).

Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.

The provision of youth leadership or development programmes.

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 08 June 2021.
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 documents to comply with the requirements of section 30 of the Income Tax Act, the following clauses must be added –
 - a) 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.
 - b) The funds of the public benefit organisation will be used solely for the objects for which it was established
 - c) 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.
 - 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) The activities of the organisation are to be carried on in a non-profit manner and with an altruistic or philanthropic intent.
 - g) 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.

- h) No resources will be used, directly or indirectly, to support advance or oppose any political party.
- i) 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.
- j) 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.
- k) A copy of all amendments to the founding documents will be submitted to the Commissioner for the South African Revenue Service.
- l) The public benefit organisation will comply with reporting requirements as may be determined by the Commissioner for the South African Revenue Services.
- m) All public benefit activities carried on by the public benefit organisation will be for the benefit of, or widely accessible to, the general public at large, including any sector thereof, other than small and exclusive groups.

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.

1. 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.
2. Submit an annual Income Tax Return (IT12EI) by the due date via SARS e-Filing or manually. Your IT12EI can be obtained by
 - Registering online at www.sarsefiling.co.za to access, request and submit the IT12EI electronically
 - Calling the SARS Contact Centre on 0800 00 SARS (7277)
 - Requesting an IT12EI by contacting the TEU on teu@sars.gov.za or calling (012) 483 1700

- Requesting an IT12EI by visiting your local SARS branch.
3. Furthermore, given the section 18A approval granted, you must submit with your annual tax return, 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.
 4. The section 18A approval is ring-fenced as the organisation is carrying on the public benefit activities listed both in Part I and Part II of the Ninth Schedule to the Act. This means that:
 - a. Section 18A receipts may only be issued for those public benefit activities listed in Part II of the Ninth Schedule to the Act such as:
 - Community development for poor and needy persons and anti-poverty initiatives, including —
 - (i) the promotion of community-based projects relating to self-help, empowerment, capacity building, skills development or anti-poverty;
 - (ii) the provision of training, support or assistance to community-based projects contemplated in item (i); or
 - Training for unemployed persons with the purpose of enabling them to obtain employment
 - The provision of school buildings or equipment for public schools and educational institutions engaged in public benefit activities contemplated in subparagraphs (a) to (h).
 - Career guidance and counseling services provided to persons attending any school or higher education institution as envisaged in subparagraphs (a) and (b).
 - Educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy.
 - b. Section 18A receipts may not be issued for any donations received in support of activities listed in Part I of the Ninth Schedule to the Act, such as:
 - The provision of youth leadership or development programmes.
 - c. The funds received for Part II activities must be kept separately from the other funds of the organisation (i.e. in a separate bank account) and recorded in separate books or accounts to be provided to SARS on request.
 - d. A certificate signed by a registered auditor, must be obtained annually and submitted to SARS on request, to confirm that all donations, for which tax-deductible receipts were issued, were utilised exclusively for Part II activities.
 5. Funds for which section 18A certificates are issued may only be used in South Africa. A certificate signed by an auditor must be submitted to SARS on request, to confirm that all donations, for which tax-deductible receipts were issued, were utilised in South Africa.

6. Tax deductible receipts may only be issued for *bona fide* donations. Refer to Annexure A for more information in this regard.
7. 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.
8. 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



Yvette Vorster
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