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**SOUTH AFRICAN REVENUE SERVICE**

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**BASIC GUIDE TO  
TAX-DEDUCTIBLE  
DONATIONS**

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Another helpful guide brought to you by the  
South African Revenue Service



[www.sars.gov.za](http://www.sars.gov.za)

# BASIC GUIDE TO TAX-DEDUCTIBLE DONATIONS

## Foreword

This guide provides a basic explanation of tax-deductible donations. It does not go into comprehensive technical and legal detail and should therefore not be used as a legal reference.

Should you require additional information you may –

- consult the *Tax Exemption Guide for Public Benefit Organisations in South Africa* which is available on the SARS website;
- visit the SARS website at **[www.sars.gov.za](http://www.sars.gov.za)**;
- contact your own tax advisor or tax practitioner; or
- contact the SARS Tax Exemption Unit on +27 12 483 1700 or email the unit at [teu@sars.gov.za](mailto:teu@sars.gov.za)

Comments on this guide may be sent to **[policycomments@sars.gov.za](mailto:policycomments@sars.gov.za)**.

Prepared by

**Legal and Policy Division**  
**SOUTH AFRICAN REVENUE SERVICE**  
8 March 2013

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## Glossary

In this guide unless the context indicates otherwise –

- **“Act”** means the Income Tax Act 58 of 1962;
- **“fiduciary”** means a person who holds a position of trust or responsibility including decision-making powers with respect to the affairs of an organisation;
- **“founding document”** means the written instrument under which an organisation is established and governed such as the constitution, memorandum of incorporation, trust deed or will;
- **“Minister”** means the Minister of Finance;
- **“Ninth Schedule”** means the Ninth Schedule to the Act;
- **“non-profit company”** means a non-profit company as defined in section 1 of the Companies Act, 71 of 2008;
- **“Part I”** means Part I of the Ninth Schedule;
- **“Part II”** means Part II of the Ninth Schedule;
- **“PBA”** means a public benefit activity listed in the Ninth Schedule;<sup>1</sup>
- **“PBO”** means a public benefit organisation as defined in section 30(1);
- **“SARS”** means the South African Revenue Service;
- **“section”** means a section of the Act;
- **“section 10(1)(cA)(i)”** means the section providing for the exemption from income tax of the receipts and accruals of certain institutions, boards or bodies established by or under law. This exemption must be formally approved by the Tax Exemption Unit;
- **“section 18A”** means the section providing for the tax deductibility of donations made to certain approved organisations carrying on PBAs approved in Part II;
- **“section 30”** means the section setting out the conditions and requirements which must be complied with by PBOs in order to gain and retain approval as a PBO by the Tax Exemption Unit;
- **“South Africa”** means the Republic of South Africa;
- **“TEU”** means Tax Exemption Unit; and
- any word or expression bears the meaning ascribed to it in the Act.

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<sup>1</sup> The Act provides for the Minister to declare additional activities to be public benefit activities by notice in the *Government Gazette*.

## **1. Introduction**

The South African Government has recognised that certain organisations are dependent upon the generosity of the public and to encourage that generosity has provided a tax deduction for certain donations made by taxpayers.

A taxpayer making a *bona fide* donation in cash or of property in kind to a section 18A-approved organisation, is entitled to a deduction from taxable income if the donation is supported by the necessary section 18A receipt issued by the organisation or, in certain circumstances, by an employees' tax certificate reflecting the donations made by the employee. The amount of donations which may qualify for a tax deduction is limited.

The eligibility to issue section 18A receipts is restricted to specific approved organisations which use the donations to fund specific approved PBAs.

This guide has been prepared to assist organisations in determining whether they qualify for approval to issue section 18A certificates and to explain the requirements that must be complied with if approved.

## **2. Tax Exemption Unit (TEU)**

The TEU is a dedicated office within SARS which deals with all applications by organisations for approval as PBOs. It also grants approval to qualifying organisations to issue section 18A receipts. The centralisation of the approval process is intended to promote uniform treatment by SARS.

The TEU also monitors compliance by organisations with the approval requirements in order to prevent malpractice and abuse.

Contact details of the TEU are set out in **18**.

## **3. Approval to issue receipts**

PBOs or organisations must formally apply for approval to issue section 18A receipts for donations received. Applications for approval must be submitted to the TEU. Organisations must meet the requirements set out in **4** to **6** before approval to issue section 18A receipts will be granted.

### **3.1 Effective date to issue receipts**

A PBO or organisation may only issue section 18A receipts for donations received from the date the TEU has confirmed that the PBO or organisation qualifies for section 18A approval and has issued it a reference number.

## **4. Public benefit activities**

The PBAs which are approved by the Minister for section 18A purposes are those PBAs listed in Part II.

In certain instances the Minister may by notice in the *Gazette*, determine that additional activities qualify. The Minister may also, by regulation, prescribe additional requirements that these additional activities will need to comply with.

The PBAs listed in Part II are categorised as follows:

- Welfare and humanitarian
- Health care
- Education and development
- Conservation, environment and animal welfare (only certain PBAs are included in this category)
- Land and housing (only certain PBAs are included in this category)

**Note:** The PBAs listed under paragraph 10 of Part I, namely “*Providing funds, assets or other resources*”, are not listed in Part II. A specific provision is included in section 18A(1)(b) for an approved PBO that carries on some of the activities listed under this category. More specifically, the PBAs qualifying for section 18A approval are specifically limited to the provision of *funds and assets* and do not include the provision of services or other resources as set out in Paragraph 10 of Part I (see **5.1**). Refer to **6.1** for specific requirements which must be complied with by PBOs falling under this category.

## **5. Organisations that qualify for section 18A approval**

### **5.1 Approved PBOs**

The PBO must be a non-profit company, a trust or an association of persons that has been incorporated, formed or established in South Africa and must be approved under section 30(3). There are two categories of approved PBOs that qualify for approval:

- A PBO which is the “doer”, namely, it must actively carry on any PBA listed in Part II *in South Africa*.
- A conduit PBO, that is, a PBO which does not itself carry on the PBA listed in Part II but which *provides funds or assets* (see **4**) to another approved PBO, referred to in the preceding bullet, or to an institution, board or body contemplated in section 10(1)(cA)(i) (see **5.2**) which carries on any PBA listed in Part II *in South Africa*.

See **4** for more information on the qualifying PBAs approved for section 18A purposes. A conduit PBO also has additional specific requirements with which it must comply in order to qualify for section 18A approval (see **6.1**).

A PBO will only be granted approval to issue a receipt to the extent that the donation of cash or property in kind will be used solely in carrying on activities listed in Part II in South Africa. In the case of a conduit PBO, section 18A receipts may only be issued to the extent that the funds or assets are to be provided to other PBOs, institutions, boards or bodies which use the funds in carrying on the activities listed in Part II in South Africa.

A PBO that carries on a combination of PBAs, some of which are only listed in Part I and some of which are listed in Part I and Part II, may be granted approval to issue section 18A receipts for donations received for the PBAs listed in Part II provided those activities are ring-fenced. This means that the donation is received subject to the stipulation that it will be used on a PBA listed in Part II and that the donations received will be controlled in such a manner that usage thereof will be restricted to those activities only. The record-keeping of the PBO must be such that it clearly identifies the donations received for the Part II PBAs and the use to which those donations were applied. PBOs falling into this category must obtain a certificate issued by an auditor confirming that all donations received or accrued during the year for which the PBO issued section 18A receipts were used solely in carrying on PBAs approved for section 18A purposes. The PBO is required to retain the audit certificate as part of its records.

A conduit PBO that provides funds or assets to other PBOs, institutions, boards and bodies that carry on Part I and Part II PBAs, must also comply with the ring-fencing requirement and obtain and retain a certificate issued by an auditor confirming that all donations received or accrued during the year for which the conduit PBO issued section 18A receipts were used solely by those recipient organisations in carrying on PBAs approved for section 18A purposes (PBAs listed in Part II).

## **5.2 Institutions, boards or bodies established by or under law**

An institution, board or body established by or under law, that has been approved by the Commissioner under section 10(1)(cA)(i) and which carries on any PBA listed in Part II in South Africa, may qualify for section 18A approval. See 4 for more information on the PBAs listed in Part II which are approved for purposes of section 18A.

An institution, board or body that carries on a combination of PBAs, some of which are listed in Part I and some of which are listed in Parts I and II, must annually obtain and retain an audit certificate confirming that all donations for which section 18A receipts were issued, were used solely for a section 18A approved PBA (that is, PBAs listed in Part II). The ring-fencing requirements discussed in 5.1 also apply in this case.

## **5.3 The government of South Africa in the national, provincial or local sphere**

A department in the national, provincial or local sphere of government as contemplated in section 10(1)(a) which carries on any PBA listed in Part II may qualify for section 18A approval.

The Accounting Authority contemplated in the Public Finance Management Act 1 of 1999 for the relevant department must, on an annual basis, submit an audit certificate to the Commissioner certifying that all donations for which receipts were issued, were used for a PBA listed in Part II.

## **5.4 Specialised agencies**

Any agency contemplated in the definition of the term “specialised agencies” in section 1 of the Convention on the Privileges and Immunities of the Specialised Agencies 1947, which are set out in Schedule 4 to the Diplomatic Immunities and Privileges Act 37 of 2001 may qualify for section 18A approval provided certain requirements are met (see 6.4). The agencies referred to in this provision relate to the United Nations Specialised Agencies.

# **6. Specific conditions for organisations that qualify for section 18A approval**

## **6.1 Conduit PBOs providing funds**

A conduit PBO will only qualify to issue section 18A receipts for donations received for purposes of providing *funds and assets* to other approved PBOs (see first category in 5.1) and qualifying institutions, boards or bodies (see 5.2) that carry on PBAs listed in Part II.

A conduit PBO is obliged to distribute or incur the obligation to distribute at least 75% of those funds received by it for which it issued a section 18A receipt within 12 months of the end of the year of assessment in which the donation was received.

The TEU may, having regard to the public interest and purpose for which the conduit PBO wishes to accumulate the funds and subject to such conditions as the TEU may determine, defer, reduce or waive the obligation to distribute 75% of the funds as set out above. The exercise of discretion in this regard may arise when the conduit PBO is, for example, accumulating funds for a specific capital project in respect of a section 18A-approved PBA. A conduit PBO may wish to accumulate capital to build a school hall or pavilion for its beneficiary (an approved PBO carrying on a PBA listed in Part II). The TEU will not permit a conduit PBO to accumulate funds indefinitely and in exercising its discretion will consider the capital project's details including its timeframe. Failure to use the funds for a section 18A-approved PBA may have harsh consequences for the conduit PBO. The requirement to distribute 75% of the funds will not be relaxed for purposes of merely providing a general endowment or accumulating a general capital fund.

An application to have this requirement relaxed must be submitted to the TEU together with full details of the project or purpose for which the funds are to be accumulated, the project time frame, the estimated costs involved and motivated reasons for why the requirement should be relaxed.

## **6.2 PBO carrying on the establishment and management of a transfrontier area (Paragraph 4(d) of Part II)**

The activity of establishing and managing a transfrontier conservation area involving two or more countries is listed as a PBA in Part II. A PBO that conducts this approved PBA may qualify for approval to issue section 18A receipts for donations received provided certain specific requirements and conditions as required by section 18A are included in the PBO's founding document. These conditions are that –

- a section 18A receipt will not be issued for any donation made by any person unless –
  - that donation is made by the person on or after 1 August 2002; and
  - the donor (in the case of a company, together with any other company in the same group of companies as that company) has during the donor's year of assessment donated an amount of at least R1million to that PBO;
- every donation in respect of which a receipt has been issued will be matched by a donation of the same amount made by a person who is not a resident and which is made from funds generated and held outside South Africa; and
- the PBO will use the amount of –
  - all donations received for which a valid receipt is issued, and all income derived from those donations, in South Africa in carrying on that PBA; and
  - all donations received from donors who are not residents and which are made from funds generated and held outside South Africa, either in South Africa in carrying on that PBA or in respect of a transfrontier conservation area of which South Africa forms part.

### 6.3 PBO carrying on PBA of providing scholarships, bursaries, awards and loans for study, research and teaching (Paragraph 3(o) of Part II)

This PBA is subject to conditions prescribed by the Minister by regulation in the Gazette. The regulations were published in *Regulation Gazette* 24941 of 28 February 2003. These conditions must be included in the founding document of the PBO conducting this PBA. The conditions are:

- The scholarship, bursary or award must be *bona fide* and be granted to an individual on grounds of objective merit or need.
- The scholarship, bursary or award may not be –
  - revocable other than for reasons of material failure to conform with the designated purpose and condition of the scholarship, bursary or award;
  - subject to conditions which would enable the donor of the funds or any connected person in relation to the donor to derive a direct benefit from the application of the scholarship, bursary or award; and
  - granted to any person who is or will become an employee of the donor or that organisation or an associated institution in relation to the donor or organisation, or any relative of that employee, unless it can be indicated that even if that person had not been an employee the bursary, scholarship or award would have been granted.
- All decisions regarding the granting of the scholarship, bursary or award must be made by a duly constituted committee consisting of at least three persons who are not connected persons to the donor or to the person to whom it will be granted.
- When the scholarship, bursary or award is in respect of overseas study, research or teaching it is subject to an undertaking by the recipient to –
  - apply the knowledge obtained immediately after completion, in South Africa for a period of at least the period that was funded by the organisation; or
  - refund the full amount of the scholarship, bursary or award should the recipient decide not to apply the knowledge as set out in the preceding bullet point.

In addition copies of all documents and information relating to the scholarship, bursary or award and minutes of all meetings at which any scholarship, bursary or award was granted must be made available to the Commissioner on request.

### 6.4 Specialised agencies

The specialised agency referred to in 5.4 may qualify for section 18A approval provided certain requirements are met. These requirements are:

- The agency must conduct a PBA approved for section 18A purposes in South Africa.
- A written undertaking must be submitted to the Commissioner that the agency will comply with section 18A.
- Confirmation must be submitted that it will waive diplomatic immunity if found to have failed to comply with the relevant provisions as required by section 18A (see 16.1).

By waiving diplomatic immunity the Agency will be liable to the non-compliance penalties if found to have contravened section 18A.

## **7. Group registration**

### **7.1 Group of institutions, boards or bodies sharing a common purpose**

The Commissioner may approve a group of institutions, boards or bodies contemplated in section 10(1)(cA)(i), that share a common purpose and carry on any PBA under the direction or supervision of a regulating or co-ordinating body, for purposes of section 18A. The approval is subject to the condition that the controlling body takes the steps prescribed by the Commissioner to exercise control over these entities to ensure they comply with section 18A. For example, group registration may apply to public schools, provided the relevant provincial education authority has applied for group registration for section 18A purposes for all public schools in its jurisdiction.

Under section 30(3A) the Commissioner may also grant approval to a regulating or co-ordinating body in respect of a group of PBOs<sup>2</sup> and, similarly, may stipulate prescribed steps which the regulating or co-ordinating body must take to ensure compliance with section 30 and section 18A.

### **7.2 Abuse of approval by group**

A regulating or co-ordinating body of a group of PBOs, institutions, boards or bodies approved as a group for purposes of section 18A must ensure compliance with section 18A. Non-compliance by the regulating or co-ordinating body in taking the steps prescribed by the Commissioner or failing to notify the Commissioner when it becomes aware of any material failure to comply with the provisions of section 18A, may, after due notice, result in the withdrawal of approval to issue section 18A receipts. The notice issued by the Commissioner will notify the controlling body that if corrective steps are not taken within the period specified in the notice that any receipt issued by PBOs, institutions, boards or bodies within the group on or after the date specified in the notice, will not qualify for section 18A status. As a result, the related donations will not qualify for a tax deduction in the hands of the donor.

## **8. Organisations that do not qualify to issue receipts**

### **8.1 Branches of foreign exempt organisations**

A branch established in South Africa by a foreign exempt organisation does not qualify for section 18A approval and will therefore not be allowed to issue receipts under this section even though it may carry on section 18A-approved PBAs.

### **8.2 Non-approved organisations**

An organisation that has not been formally approved by the TEU under section 18A may not issue receipts under that section for donations received.

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<sup>2</sup> See the *Tax Exemption Guide for Public Benefit Organisations in South Africa* which is available on the SARS website.

## 9. Receipt to be issued

The receipt which is issued for section 18A purposes by an approved organisation must include the following details:

- The reference number of the organisation issued to it by the Commissioner for purposes of section 18A.
- The date of the receipt of the donation.
- The name and address of the organisation issuing the receipt to which enquiries may be directed.
- The name and address of the donor.
- The amount of the donation or the nature of the donation if not in cash.
- 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.

The section 18A receipt must be issued by an organisation approved for purposes of section 18A in the year during which the donation is received.

## 10. Deduction of donations from taxable income

A taxpayer (individual, trust or company) making a *bona fide* donation in cash or of property in kind to a section 18A approved organisation, is entitled to a deduction from taxable income if the donation is supported by the necessary section 18A receipt issued by the organisation (see **9**) or by an employees' tax certificate reflecting the donations made by the employee for which the employer has received a section 18A receipt from the donee organisation (refer **10.2**). The donation must have been actually paid or transferred in order to qualify for a deduction.

A taxpayer may make the donation directly to the organisation which has been approved by the Commissioner to issue section 18A receipts (see **10.1**) or if the taxpayer is an employee and the employer operates a payroll-giving programme (see **10.3**), the donation may be deducted on a monthly basis from the employee's salary.

The deduction from the taxable income of a taxpayer for all qualifying donations paid or transferred during the tax year may not exceed 10% of the taxable income (excluding any retirement fund lump sum benefit and any retirement fund lump sum withdrawal benefit) of the taxpayer as calculated before allowing any deduction under section 18A or any deduction for medical and dental expenses under section 18.

The allowable deduction is determined in accordance with a specific formula if the donor is a portfolio of a collective investment scheme.

### 10.1 *Bona fide* donation

A donation is a gratuitous disposal by the donor out of liberality or generosity, under which the donee is enriched and the donor impoverished. It is a voluntary gift which is freely given to the donee. There must 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.

Section 30(3)(b)(v) provides that an approved PBO may not accept donations which are subject to conditions that could enable the donor or any connected person in relation to the donor to derive some direct or indirect benefit from the application of the donation. The donation may also, subject to limited exceptions, not be revocable by the donor.

## **10.2 Donation made directly by the taxpayer**

When the taxpayer makes the donation directly to the approved organisation, the organisation will issue the receipt to the taxpayer to enable the taxpayer to claim the donation as a deduction in the taxpayer's annual income tax return.

## **10.3 Payroll-giving**

A payroll-giving programme operated by an employer enables employees to donate from their salaries on a monthly basis to organisations that have been approved to issue section 18A receipts. The donation is taken into account by the employer when calculating the monthly employees' tax to be deducted. The deduction is limited for employees tax purposes to 5% of remuneration after deducting certain amounts as specified in paragraph 2 of the Fourth Schedule to the Act.

The donations made by payroll-giving must be reflected on the IRP 5 issued to the employee provided the employer has received a section 18A receipt. The employer must retain the receipt for record purposes.

# **11. Types of donation**

## **11.1 Cash donation**

The donation may be made in cash (money). This includes payments by electronic fund transfer, credit card, postal order or debit card. As noted above, the donation must actually be paid or transferred during the year of assessment to the organisation approved under section 18A. Promissory notes, pledges, payments to be made in future instalments or post-dated cheques do not qualify.

## **11.2 Donation of property in kind**

A donation of property in kind must be used by the PBO in carrying on the PBA in Part II.

Donations of property made in kind include the following:

- A financial instrument provided it is a share in a listed company or is issued by a financial institution as defined in section 1 of the Financial Services Board Act 97 of 1990.
- Trading stock which forms part of the business undertaking or trading activity conducted by the donor. This may include livestock or produce donated by a farmer, goods such as computers, foodstuffs, medical supplies, furniture and motor vehicles.
- An asset used by the donor in conducting a trade but which is not trading stock. This may include computers, furniture, office equipment, delivery vehicles, cash registers, garden equipment, crockery or kitchen utensils.
- An asset which is not trading stock or used in the business of the donor. This may include personal assets or assets bought by the donor such as vehicles, computers, furniture or sport equipment.

- Property which is purchased, manufactured, erected, installed or constructed by or on behalf of the donor. This may include carpets or cupboards installed on behalf of the donor or security fencing and buildings such as classrooms erected by or on behalf of the donor for purposes of conducting the approved PBA.

The value of a donation of property in kind of the type listed above must be determined as set out in **11.2.1**.

A deduction will not be allowed for the donation of any property in kind which constitutes or is subject to any fiduciary right, usufruct or other similar right or which consists of an intangible asset or financial instrument (unless the financial instrument meets the requirements set out above).

### **11.2.1 Value of a donation of property in kind**

A taxpayer may claim a deduction for a donation of property made in kind to an organisation which has been approved for section 18A purposes. The amount of the deduction for donations of the property in kind as discussed in **11.2** must be determined as set out below:

- Property that constitutes a financial instrument which is trading stock, the lower of fair market value on the date of the donation or the amount taken into account in respect of the value of the trading stock under section 22(8)(C).
- Property that forms part of trading stock of the taxpayer, including livestock or produce of farmers, the amount taken into account in respect of the trading stock under section 22(8)(C) or paragraph 11 of the First Schedule to the Act as appropriate.
- Property that is an asset used in the taxpayer's trade, the lower of the fair market value on the date of donation or the cost to the taxpayer less any allowance (other than an investment allowance) deducted from the income of that taxpayer for that asset.
- Property that is not trading stock and not a business asset, the lower of the fair market value on the date of the donation or the cost to the taxpayer less depreciation using the 20% reducing balance method in the case of deterioration of movable property.
- Property that is purchased, manufactured, erected, assembled, installed or constructed by or on behalf of the taxpayer to form the subject of the donation, the lower of the fair market value on the date of the donation or the cost to the taxpayer.

## **12. Donation of services rendered**

The donation of a service such as time, skill or effort to an approved organisation will not qualify as a deduction for purposes of section 18A as a service is not a donation of "property made in kind" (refer **11.2**).

For example, a professional person such as an auditor, artist (including a singer, musician or entertainer), medical doctor, lawyer, accountant, plumber or electrician who renders a service free of charge to an approved organisation will not be entitled to a tax deduction for the value of the service.

### **13. Payments or transfers that do not qualify for a tax deduction**

The following do not qualify for a deduction under section 18A:

- An amount 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.
- The amount paid for the successful bid of goods auctioned to raise funds.
- Amounts paid for raffle or lottery tickets.
- Amounts paid for school fees, school entrance fees or compulsory school levies.
- The value of free rent, water and electricity provided by a lessor to the lessee which is an approved PBO.
- Payments of debt owed by an organisation approved under section 18A. An example would be the cost of repairs to a vehicle which is paid to the service station on behalf of the PBO and is not paid directly to the PBO.
- Prizes and sponsorships donated for a fundraising event such as a charity golf day.
- Tithes and offerings to churches or other religious organisations for religious activities.
- Membership fees.

### **14. Control measures**

Qualifying organisations are required to maintain proper control over the application and spending of donations received which qualify for a tax deduction. A receipt for a tax-deductible donation may only be issued for a donation which is used solely and exclusively for section 18A approved PBAs.

### **15. Abuse of approval by an approved organisation**

#### **15.1 PBO, institution, board or body and specialised agency**

When the Commissioner has reasonable grounds for believing that the person who is in a fiduciary capacity responsible for the management or control of the income or assets of a section 18A approved PBO, institution, board or body, or a specialised agency has –

- materially failed to ensure that the objects for which that organisation was established have been carried out;
- expended that organisation's monies for purposes not covered by the objects;
- issued or allowed a receipt to be issued for fees or other emoluments payable to the organisation;
- issued or allowed a receipt to be issued in contravention of section 18A; or
- used a donation for which a receipt was issued for any purpose other than for section 18A-approved PBAs;

the Commissioner may, by written notice, direct that the amount of the donations for which section 18A receipts were issued will be deemed to be taxable income in the hands of the approved PBO, institution, board or body or specialised agency.

In addition, the Commissioner may direct that unless corrective steps are taken by that organisation within the period specified in the notice, any receipt issued by that organisation will not qualify as a valid section 18A receipt from the date specified in the notice. This means that the related donation will not constitute a tax-deductible donation in the hands of the donor.

## **15.2 The government of South Africa in the national, provincial or local sphere**

When an accounting officer or accounting authority contemplated in the Public Finance Management Act 1 of 1999 or the accounting officer contemplated in the Local Government Municipal Finance Management Act 56 of 2003 of the above spheres of government has issued or allowed a receipt to be issued in contravention of the requirements of the Act or used a donation for which a section 18A receipt was issued for purposes other than the PBAs contemplated in Part II, the Commissioner must notify the National Treasury and the Provincial Treasury (if applicable) of the contravention. The Commissioner may also inform the accounting officer or accounting authority by written notice that unless corrective steps are taken within the period specified in the notice, receipts issued by that sphere of Government will, from a date specified in the notice, not qualify as a valid section 18A receipt. This means that the related donation will not constitute a tax-deductible donation in the hands of the donor.

## **16. Non-compliance by responsible person**

### **16.1 Person responsible in a fiduciary capacity for the management or control of the income and assets of an approved PBO or institution, board or body**

A person who is responsible for the management or control of the income and assets of –

- an approved PBO (see **5.1**); or
- an institution, board or body contemplated in **5.2**

who intentionally fails to comply with any provision of section 18A or a provision of the founding document under which such organisation is established to the extent that it relates to section 18A, will be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years.

### **16.2 Accounting officer or accounting authority**

An accounting officer or an accounting authority contemplated in the Public Finance Management Act 1 of 1999 or the Local Government Municipal Finance Management Act 56 of 2003 of the government in the national, provincial or local sphere (refer **5.3**) who intentionally fails to comply with any provision of section 18A will be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding two years.

## **17. Record-keeping**

Any books of account, records or other documents of an approved PBO (see **5.1**) or of an institution, board or body approved by the Commissioner under section 10(1)(cA)(i) (see **5.2**), must be retained and carefully preserved for a period of at least four years after the last date of an entry in any book or, if kept in electronic or any other form, for a period of four years after completion of the transaction, act or operation to which they relate. It is the responsibility of the person in control of the organisation to ensure that the necessary records are kept.

To assist in enforcing the provisions of the Act, the TEU may submit a written request to any person to furnish information in regard to any approved PBO and may require that person to –

- answer any questions relating to the PBO;
- make books of account, records or other documents relating to the PBO available for inspection; or
- meet with the Commissioner’s representative and produce for examination any documents relating to the PBO.

## **18. Contact details of the Tax Exemption Unit**

**Physical address:**

Land Bank Building  
271 Veale Street  
Nieuw Muckleneuk  
Pretoria 0181

**Postal address:**

PO Box 11955  
HATFIELD 0028

**Telephone:** 012 – 483 1700

**Fax:** 012 – 483 1701

**E- mail:** [teu@sars.gov.za](mailto:teu@sars.gov.za)