Deductible Donations

By Doné Howell, Tax Partner Grant Thornton Johannesburg

"Social responsibility is an ethical theory that an entity, be it an organisation or individual, has an obligation to act to benefit society at large."

When your moral compass and sense of social responsibility lead you to acts of benevolence, you could, in addition to the sense of wellbeing that comes from helping others, also qualify for a reduction in your tax bill. In recognition of the valuable role these donations from individuals and businesses play in these tougher economic times, government has legislated further concessions to allow greater tax relief in respect such donations.

Generally, donations made to organisations established to carry out public benefit activities will qualify as a tax deduction. However, donations made or transferred on or after 1 March 2014 will also benefit from the following concessions:

To whom can you donate? Qualifying organisations

- You will only qualify for a tax deduction if your donation was made to approved public benefit organisations and certain qualifying institutions ('approved organisations').
- There are numerous regulations that determine whether an organisation qualifies as approved organisations. If you wish to qualify for a tax deduction, you need to establish if the beneficiary of your donation can issue a receipt as intended under section 18A of the Income Tax Act, No. 58 of 1962 ('the Act').

How much can you claim as a tax deduction?

- Taxpayers – natural persons, trusts, companies, or close corporations – can deduct from their taxable income, the amounts they donated to approved organisations, up to the value of 10 percent of their taxable income.
- For natural persons, the term taxable income refers to the taxpayer’s taxable income, whether derived from trade or from a non-trading source, and after allowing all permitted deductions, but before this donations deduction. Taxable income excludes any retirement lump sum benefit, retirement lump sum withdrawal benefit and severance benefit. However, it includes taxable capital gains.
- The donation must actually be paid or transferred during the year of assessment in order to qualify for a tax deduction in such tax year.

An incentive to give more now. Roll over treatment of excess

- As from 1 March 2014, any donations in excess of the 10 percent limit will be rolled over and carried forward to the succeeding year of assessment. It will thus be deemed a donation actually paid or transferred during the succeeding year.
- This rollover treatment will continue to apply in respect of any future excesses.

More ways to give. Payroll giving

- Your donation can also reduce your monthly employees’ tax (‘PAYE’), if your employer agrees to process such through its payroll.
- Essentially, any donation made, limited to five percent of your salary (subject to certain allowable deductions) can be deducted from your salary before PAYE is calculated. However, these requirements must also be

met:

  - The beneficiary must be an approved organisation;
  - The donation amount is deducted from your salary and paid to the approved organisation on your behalf;
  - The approved organisation must issue the section 18A certificate to your employer;
  - Your employer must reflect the full amount of the donation, not only the five percent, on your IRP5 certificate.
  - The IRP5 certificate will suffice as the supporting documentation required to claim the tax deduction on your annual tax return.

What else can you give and how will it work? Donations other than cash

- Your donation can be in the form of cash or property in kind.
- If you donate property in kind and it qualifies for the section 18A deduction, the deemed donation amount will be dependent on whether the donation is in the form of trading stock, trading assets or other assets.
- If the donation is in the form of immoveable property, which is of a capital nature, and the cost does not exceed the lower of the market value or municipal value, the deemed donation will be calculated according to a set formula.

What else should you know?

- If you donate to any organisation that does not qualify as an approved organisation, you (the donor) are liable to pay donations' tax at a rate of 20 percent on the value of such donation.

- However, there are various exemptions to this, including inter alia:
    - Donations by natural persons: up to R100 000 per year
    - Donations by all other persons: up to R10 000 per year
    - Donation between spouses
- Furthermore, if you donate an asset to a tax exempt entity, you must disregard any capital gain or capital loss determined in respect of such donation.
- Donations to foreign organisations will not qualify as a tax deduction in determining your normal tax in South Africa.

These new concessions provide more opportunities for taxpayers to have control over the good their money can do in the broader society. With some planning and goodwill, it can truly result in a win-win outcome for all.