

LEGISLATIVE FRAMEWORK OF PHILANTHROPY IN BULGARIA



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Legislative framework for the provision of donations

The regulatory framework:

Law on Obligations and Contracts (LAC)

Corporate Income Tax Act (CITA)

Personal Income Tax Act (PITA)

Law on Local Taxes and Fees (LFTF)

Value Added Tax Act (VAT Act)

General Rules:

According to the LAC, a donation is a contract between two parties, the donor and the recipient of the donation, under which the donor provides the recipient with his or her own property free of charge. The Bulgarian legislation does not contain any special regulation of public fundraising (through fundraising campaigns for a publicly announced social cause). In these cases, the general legal framework and requirements for making and receiving donations apply.

There are a few general rules concerning the making of donations:

- Where immovable property is donated, this must be done by means of a deed of donation.
- When vehicles are donated, a donation contract with notarisation of the signatures of both parties is mandatory.
- In other cases, the law does not necessarily require the donation to be in writing. In these cases, it is sufficient for the donation to be actually delivered to the recipient.
- Where the donated property is worth more than BGN 5,000, it is advisable that the contract be in writing in order to prove the donation in the event of a future dispute.

- In principle, anonymous donations are invalid. All donations in which the identity of either party cannot be ascertained are anonymous. In practice, this problem arises when donations are collected through donation boxes. In order to overcome this problem it is necessary to have a donors' book next to the donation boxes in which the names and value of each donation are entered. It should also be borne in mind that under the current anti-money laundering and anti-terrorist financing regulations in Bulgaria, such transactions are treated as suspicious and such donations should not be accepted before the identity of the donor and the origin of the donation have been established.

Taxation of donations and tax benefits for donors

The Bulgarian legislation provides for tax benefits for donors (legal entities and individuals) when the recipients of the donations are persons who fall within the categories explicitly and exhaustively mentioned in the tax laws.

According to the Law on Taxes on Donations, the relief for donors - legal entities, consists in the recognition for tax purposes of accounting expenses for donations in the total amount of up to 10 percent of the positive accounting financial result (accounting profit), when the expenses for donations are incurred for the benefit of the persons referred to in Article 31 of the Law (e.g. schools, kindergartens, NGOs, people with disabilities, socially disadvantaged persons, persons with disabilities or without parents, cultural institutes). Donations to cultural institutions and organisations (within the meaning of the patronage law) may reduce the tax base by up to 15%. Donations to the Children's Treatment Fund or the Assisted Reproduction Fund may reduce the tax base by up to 50%.

According to the Personal Income Tax Act, the relief for donors - natural persons consists in a reduction of up to 5% of the annual income of the person by the donations made during the year, and donations to cultural institutions and organisations may reduce the tax base by up to 15%. Donations to the Children's Treatment Fund and the Assisted Reproduction Fund may reduce the tax base by up to 50%. Article 22 of the Income Tax Act specifies the categories of persons who should be the recipients of donations in order to benefit from these reliefs. Most of the categories coincide with those set out in the CITA.

A special local donation tax is also regulated in the LFTF. It is due for all donations and each municipality independently determines its amount (from 3.3% to 6.6% of the donation value). In principle, the tax is payable by the recipient of the donation, but by express agreement the tax may also be paid by the donor. For certain categories of persons (state or municipal schools, kindergartens and nurseries, NGOs for public benefit, medical institutions, etc.) the law provides for exemption from this tax.

Currently, when donations are raised by charity SMS, these messages are treated as taxable and VAT is charged on the full value.