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Law 8,313, of December 23th, 1991 – Federal Law on Cultural Incentive

Art. 18. Aiming to encourage cultural activities, the Union will allow individuals or legal entities to make an option on investing a portion of the Income Tax, by way of donations or sponsorship, to directly support cultural projects submitted by individuals or by legal entities with cultural purposes, or through contributions to the FNC (Fund for National Culture), pursuant to art. 5, section II, of this Law, provided that the projects meet the criteria set forth in art. 1 of this Law (Text by Law 9,874/99)

§1 The taxpayers may deduct from the income tax due the amounts actually spent on projects listed in §3, previously approved by the Ministry of Culture, within the limits and conditions established in the income tax law in force in the form of: (Included by Law 9,874/99)

a) donations and (Included by Law 9,874/99)

b) sponsorship. (Included by Law 9,874/99)

§2 The legal entities taxed based on actual profit may not deduct the amount of donation or sponsorship referred to in the previous paragraph as an operating expense. (Included by Law 9,874/99)

§3 The donations and sponsorships in cultural production referred to in §1 will exclusively support the following segments: (Text by Provisional Measure 2228-1/01)

a) performing arts; (Text by Provisional Measure 2228-1/01)

b) books of artistic, literary or humanistic value; (Text by Provisional Measure 2228-1/01)

c) classical or instrumental music; (Text by Provisional Measure 2228-1/01)

d) exhibitions of visual arts; (Text by Provisional Measure 2228-1/01)

e) donations of collections for public libraries, museums, public archives and film libraries as well as personnel training and acquisition of equipment for the maintenance of such collections; (Text by Provisional Measure 2228-1/01)

f) production of cinematographic and videophonographic works of short and medium length and preservation and dissemination of audiovisual collection; and (Included by Provisional Measure 2228-1/01)

g) preservation of material and immaterial cultural heritage. (Include by Provisional Measure 2228-1/01)

h) construction and maintenance of cinema and theater, which may also function as community cultural centers in municipalities with less than 100,000 (one hundred thousand) people. (Included by Law 11,646/08)

Art. 23. For the purposes of this law, it is considered:

I - (vetoed)

II - Sponsorship: the transfer of cash with a promotional purpose or the coverage, by the income tax taxpayer, of costs or the use of goods or real estate of his own property without the transfer of its dominium to the implementation, by another person or legal entity, of a cultural activity referred to in art. 3 of this law with or without a profit purpose.

§1 It constitutes an infraction of this Law the receiving by the sponsor of any material or financial advantage as a result of the sponsorship performed.

§2 The transfers defined in this article are not subject to payment of Income Tax at source.

Art. 24. For purposes of this chapter are equivalent to donations according to the regulations:

I - free distribution of tickets for events of artistic and cultural nature, by a legal entity to its employees and legal dependents;

II - expenditures made by individuals or legal entities aimed at conserve, preserve or restore a patrimony of its own or under their legitimate possession protected by the Federal Government, since the following provisions are met:

- a) Preliminary definition, by the Brazilian Institute for Cultural Heritage - IBPC, of the standards and technical criteria that should govern the projects and budgets that this item refers to;
- b) Prior approval, by the IBPC, of the projects and respective budgets for implementing the constructions;
- c) Subsequent certification by the referred body of the expenditures actually incurred and of the circumstances for being the constructions executed according to the projects approved.

Art. 26. The donor or sponsor may to deduct from the income tax due on the statement of Income Tax, the amounts effectively contributed to cultural projects approved under the provisions of this law based on the following percentages: (see art. 5 and 6, item II, of Law 9,532/97)

I – for individuals, eighty percent of the donations and sixty percent of sponsorships;
II – for legal entities taxed based on actual profit, forty percent of donations and thirty percent of sponsorships.

§1 The legal entity taxed based on actual profit may deduct donations and sponsorships as operating expense.

§2 The maximum amount of deductions referred to in the caput of this article shall be annually fixed by the President of the Republic based on a percentage of the payable income of individuals and on the payable income of legal entities taxed based on actual profits.

§3 The benefits referred to in this article do not exclude or reduce other benefits, rebates and deductions in force, in particular donations to charitable organizations made by individuals or legal entities.

§4 (VETOED)

§5 The Executive Branch will establish a mechanism to preserve the real value of the contributions in favor of cultural projects, regarding this chapter.

Art. 27. The donation or sponsorship cannot be made to a person or an institution connected to the agent.

§1 Are considered connected to the donor or sponsor:

- a) the legal entity of which the donor or sponsor is a holder, administrator, manager, shareholder or partner, in the date of the transaction or within the prior twelve months;
- b) the spouse, relatives up to third degree, including collaterals and the dependent of the donor or sponsor, or the holders, administrators, shareholders or members of a legal entity connected to the donor or sponsor, pursuant to the preceding paragraph;
- c) other legal entity of which the donor or sponsor is a partner.

§2 The non-profit cultural institutions created by the donor or sponsor are not considered connected, since properly constituted and functioning, as provided in the law in force. (Text by Law 9,874/99)