

Notice of the Ministry of Finance and the State Administration of Taxation on the Policies and Relevant Management Issues concerning the Pre-tax Deduction of Public Welfare Relief Donations

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The public finance departments (bureaus) and state taxation departments (bureaus) of all provinces, autonomous regions, municipalities directly under the Central Government, and cities directly under separate state planning, and the Financial Bureau of Sinkiang Production and Construction Corps,

In order to further promote the development of social public welfare undertakings, the relevant policies and relevant management issues concerning the pre-tax deduction of public welfare relief donations are hereby notified as follows:

I. According to the Regulation on the Registration and Administration of Social Organizations (No. 250 of the State Council (1998)) and the Regulation on the Administration of Foundations (No. 400 of the State Council (2004)), if the relevant provisions are met, and upon confirmation of the public finance and taxation authorities, public welfare social associations or foundations established upon approval of the civil affairs administrative department may accept public welfare relief donations granted by taxpayers, and when calculating and paying the enterprise or individual income taxes, the pre-tax deduction of such donations is permitted according to current tax laws, regulations, and relevant policies.

The eligibility of donation-based pre-tax deduction for those public welfare social associations or foundations established upon approval of the department of civil affairs of the State Council shall be confirmed by the Ministry of Finance and the State Administration of Taxation, and the eligibility of donation-based pre-tax deduction of those welfare social associations or foundations established upon approval of the departments of civil affairs of the people's provincial governments shall be confirmed by the provincial authorities of public finance and taxation, and be reported to the Ministry of Finance and the State Administration of Taxation for archival filing.

The "official organs for accepting public welfare relief donations" refers to the people's governments at or above the county level and their departments.

II. A non-profit public welfare social association or foundation that applies for eligibility of donation-based pre-tax deduction shall meet the following requirements:

(1) It is dedicated to providing services to the general public and does not aim at making profits;

(2) It has the qualification of a public welfare legal person, and its property management and use comply with all relevant laws and administrative regulations;

- (3) All of its assets and increments are owned by the public welfare legal person;
- (4) Its proceeds and operational surplus are mainly used for the activities aimed at the purposes for its creation;
- (5) Its surplus cannot be attributed to any individual or for-profit organization when it is terminated or dissolved;
- (6) It cannot engage in any business activity unrelated to the public welfare purpose;
- (7) It has a sound financial and accounting system;
- (8) It has an organizational body not aimed at making private profits; and
- (9) No donor may participate by any means in the distributions of the assets of this organization, nor may it/he have ownership to such assets.

III. A non-profit public welfare social association or foundation that applies for eligibility of donation-based pre-tax deduction shall submit the following materials:

- (1) an application on requesting the donation-based pre-tax deduction;
- (2) the registration approval document as issued by the department of civil affairs of the State Council or the provincial people's government; and
- (3) its charter, and the conditions on capital sources and use for the recent years.

IV. Those non-profit public welfare social associations and foundations, as well as the people's governments at or above the county level and their departments that have the eligibility for donation-based pre-tax deductions shall use the public welfare relief donations they have accepted for the scope prescribed by tax laws or regulations, namely, for education, civil affairs, other public welfare undertakings, or for the districts that suffer from natural disasters or the poverty-stricken districts.

V. Those non-profit public welfare social associations and foundations, as well as the people's governments at or above the county level and their departments that have the eligibility for donation-based pre-tax deductions shall, when accepting donations or transferring donations, separately use the vouchers for public welfare relief donations as uniformly printed under supervision of the central or provincial public finance department according to the financial affiliation, and affix their respective special financial seals; and shall issue receipts if any individual asks for it for his donations.

VI. A taxpayer shall, when declaring the pre-tax deduction of public welfare relief donations, additionally submit the following materials:

- (1) Certification materials on the eligibility for donation-based pre-tax deductions of the non-profit public welfare social association or foundation that has accepted or transferred the donations;

(2) The receipt of public welfare relief donations as issued by the non-profit public welfare social association or foundation or the people's governments at or above the county level or any of their departments that has the eligibility for donation-based pre-tax deductions; and

(3) Other materials as required to be submitted by the competent taxation authority.

VII. The competent taxation authority shall organize the audit of the use of public welfare relief donations by non-profit public welfare social associations or foundations, and if it finds that any non-profit public welfare social association or foundation violates its own charter or uses any donations for any purpose other than those prescribed in its own charter, shall levy the income taxes on the incomes from donations and other kinds of incomes, and cancel the eligibility of donation-based pre-tax deduction it has confirmed.

VIII. This Notice shall be implemented as of the date of promulgation.