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Sponsorship and Donations law

- Art. 1. According to this law, the sponsorship is the juridical act through which two people agree upon the transfer of the ownership on financial resources or goods, in order to support non-profit activities developed by one of the parties, named the *sponsorship beneficiary*.
- Art.2. A donation is an act of generosity, through which a person, named Donor, transfers in support, without the direct or indirect obligation of the other side, the ownership on financial resources or goods to the donation beneficiary.
- Art. 3. Any juridical or physical person who transfers the ownership according to art. 1 of this law is considered a sponsor, except in the following cases:
 - (a) juridical persons whose activity is financed wholly or partially, during a fiscal year, from government funds;
 - (b) central or local public authorities and also independent public authorities;
- Art. 4. The provisions of art. 3 are also applied in case of physical and juridical persons who act as donors.
- Art. 5. Can be a beneficiary of the sponsorship:
 - (a) any non-profit juridical person which develops or intends to develop activities in the cultural and artistic world, education, scientific, charity and religious domain, sport, human rights protection, health, social services, environmental protection, economic, social and community development, international cooperation and professional interest representation; *- i.e. bar association?*
 - (b) public institutions which develop activities mentioned at (a);
 - (c) any physical person whose activity is developed in one of the domains mentioned at (a) and is an activity approved by a juridical person or public institution which works permanently in the domain in which the grant was requested. *an independent institution?*
- Art. 6. Any physical person or non-profit juridical person, who requests financial or material support in order to develop activities in the domain of art, science-research and charity, can be a beneficiary.
- Art. 7. The existence and content of the sponsorship contract is proved by the written copy of the contract. The sponsorship will include the purpose, the value of the contract, the length and deadline, and the responsibilities of the parties.

Art. 8. The existence and content of the donation contract is proved by the written copy of the contract. The donation will include the purpose and the value of the contract.

Art. 9. The value of the goods included in the sponsorship or donation contract is calculated at the delivery moment to the beneficiary according to legal regulations in force.

Art. 10. (1) The beneficiary of the sponsorship will be allowed to inform the public about the sponsorship only through the promotion of sponsor's name, mark or public image.
(2) The provisions of line 1 are not valid in case of donations.
(3) The beneficiary or the sponsor is not allowed to make commercial publicity during the sponsorship or donations.

Art. 11. The sponsor juridical person benefits from a tax reduction equal to the sponsorship but no more than:
(a) 10% from the taxes for sponsorships in culture, art, health, social assistance, charity and environmental protection sector;
(b) 8% from the taxes for sponsorships in education, human rights, science and research, sport sector;
(c) 7% from the taxes for sponsorships in religious, economic development, community development, international cooperation, professional interest representation sector.

Art. 12. The sponsor physical person benefits from income tax reduction by reducing the tax rate equal to the sponsorship but no more than 20% of the annual income taxes.

Art. 13 A donor who is a juridical person benefits from income tax reduction equal to generosity act amount, but no more than 5%.

Art. 14. A donor who is a ^{natural?} juridical person benefits from income tax reduction by reducing the tax rate equal to generosity act amount, but not more than 15% of the annual income taxes.

Art. 15. Juridical or physical persons which make donations or sponsorships, according to this law benefit from a supplementary tax reduction of 4%

Art. 16. The total amount of tax reduction allowed in case of sponsorships and donations, cumulated, cannot exceed:

- a) 14% of the tax rate for juridical persons;
- b) 24% of the tax rate for physical persons.

Art. 17. (1) Foreign physical or juridical persons which have to pay to the Romanian government, according to legislation in force, taxes for the revenue gained in Romania but in the same time make donations or sponsorships, in the domain mentioned at art. 5, and 6, benefit from a reduction of the tax rate equal to the amount of sponsorship or donation in lei, calculated at the current exchange rate.

(2) Stipulations of art. 11-16 are applied accordingly.

Art. 18. (1) Sponsorship and donation amounts are tax exempted.

- new taxes to beneficiaries?

(2) The same stipulation is applied in case of goods that became part of the beneficiaries' asset according to art. 8 of this law.

Art. 19. The importation of goods proven to be donated through sponsorships or donations is duty free.

Art. 20. According to this law, the beneficiaries of sponsorships and donations are VAT exempted.

... sponsorships or donations exempted not in other transactions

Art. 21. Cannot benefit from the exemptions stipulated in this law:

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- (a) reciprocal sponsorship and donation among physical persons;
- (b) sponsorship or donation among relatives or in-laws up to the fourth remove

Art. 22. (1) The sponsor or donor who directly or indirectly is trying to guide beneficiary's activity does not benefit from the facilities of this law.

(2) The stipulations of line 1 do not exclude the right of both parties to conclude, according to law, juridical acts affected by the task (?), if through these acts the beneficiary's activity is not guided or conditioned.

Art. 23. (1) To benefit from the facilities of this law the sponsor or donor forwards a request to the department in charge at the Ministry of Finance which will give him an answer within 30 days from the registration date.

(2) No answer during the above-mentioned period means a positive answer.

Art. 24. (1) Complaints regarding the request solving stipulated in the above article are forwarded within 30 days from the solution announcement, to the superior department in hierarchy.

- (2) A stamp tax of 0,5%, calculated at the value of disputed amount, has to be paid for forwarded complaints.
- (3) The complain revoke the sponsor or donor's duty to transfer to the state budget or, depending on the case, to the local budget, the contested amount according to this law, with the obligation to pay the taxes or customs duty.
- (4) The solving of the complaint is announced through explained decision of the department in charge within 30 days from its registration.
- (5) In case the complaint is partially or fully solved the stamp tax is given back partially or fully with the reduction of the admitted amount.

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complaint
suspend m.f.s.
to pay taxes
duty as in r.i
no. 100.*

Art. 25. (1) The party considered injured related to his/her rights stipulated in the law can forward the case to the court within 15 days from the announcement of decision, and in case of no answer, from the expiration of the period stipulated at article 24, line 4.
 (2) Stipulations of art.24, line 3 are applied until the final decision of court.

Art. 26. The stipulations of this law are in force beginning with the printing date of Official Bulletin.

Art. 27. Beginning with the date when this law will be in force all the contrary stipulations are repealed.

Preamble to The Law of Sponsorship and Donation

The Sponsorship and Donation represent the mechanisms of a more efficient use of national resources through which the government accepts and encourages civil society participation as a competent partner in problem solving of Romanian society.

The evolution of contemporary state shows that this cannot cover sufficiently the needs of society it represents. Civil society has human resources direct motivated to interfere efficiently and on the dot in those domains where the state needs complementary activities.

In the current social-political situation of Europe appears the need to harmonize the Romanian juridical framework regarding the sponsorship with law systems from European countries.

This harmonization encourages civil society activities in order to obtain new resources and a more efficient use.

Law no.32/1994 regarding sponsorship proved to be incomplete regarding the following:

- lack of clarity related to parties, sponsor and beneficiary's rights and responsibilities;
- differentiate between physical person and juridical person beneficiary;
- vagueness of some juridical terms;
- lack of attractiveness in case of juridical-fiscal system;
- insufficient incentive for the sponsor due to the lack of public recognition and of his public image, but also of the fiscal facilities;

Except the correction of these deficiencies, this draft bill introduces as a novelty the donation, as an act of generosity without the other party in transaction, practice inspired from the legislation of other European countries.

There is also a proposal regarding a system of differentiation of deductibility on activity domains, depending on the impact and priorities of these activities on society.

The project introduces supplementary facilities in support of organizations which obtain the statute of "public institution", a practice very much used now in European countries.

There are also proposals regarding the clarification of solicitor's office procedure.

Related to this preamble we consider the passage of this draft bill very necessary, as an independent law.