

## **DONATIONS vs. TAX BENEFITS**

### **Q&A FOR THE WISEGRAD GROUP**

#### [THE CZECH REPUBLIC](#)

#### [HUNGARY](#)

#### [POLAND](#)

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#### **THE CZECH REPUBLIC**

##### **Q: What is a definition of donation?**

V4 Group: Generally, a donation means granted money or other goods for which the recipient does not provide any consideration to the donor.

The definition of the gift contract, including its requisites, can be found in § 2055 of Act No. 89/2012 Coll., The Civil Code and related. According to the stated provisions, the donation contract is a bilateral legal act, which can be concluded orally or in writing, as well as by a mere concurrence (only in the case of donating a thing entered in the public list, ie most often real estate, written form is required). By donation contract, the donor transfers the ownership right to the item free of charge or undertakes to transfer the item to the recipient free of charge, when the recipient accepts the gift or offer.

##### **Q: Is donation tax deductible?**

V4 Group: In general the donation is not a tax expense, however, provided that conditions below are met, the donation can be used as a tax-deductible item. These conditions are defined in Act No. 586/1992 Coll. On Income Tax, as amended, namely in §15 (for natural persons) and §20 (for legal persons).

It should be noted that donation also has other context not only for the recipient but also for the donor (see the answer to the question "other context for deductions of legal persons and entrepreneurs"), such as inability to claim related costs as tax deductible; return of previously claimed VAT deductions, etc.



**Q: What is the limit of tax deductible donation?**

V4 Group: In case of natural persons, the value of gifts can be deducted, if their total value in the tax period exceeds 2% of the tax base or is at least CZK 1,000, however, a maximum of 15% of the tax base may be deducted in total.

In case of legal entities, the value of donations, resp. 10% of the tax base reduced pursuant to Section 34 of the ITA. The value of an individual gift, respectively. free of charge fulfillment must be at least CZK 2,000.

**Q: What can be donated?**

V4 Group: Donations can be cash, tangible (movable and immovable) as well as intangible assets or goods and products. In the case of a donation in the form of a non-monetary (donation of property), the value of the donation shall not exceed the net book value of tangible assets determined pursuant to § 29 Par. 2 of Act No. 586/1992 Coll. on Income Tax or the value recorded in the accounts of other assets.

Services may also be provided as a gift - for this purpose, services must be valued under Act No 151/1997 on Property Valuation, if their price is not known. In case of natural persons donations may also be donations of blood and blood plasma, bone marrow and other may also be considered as donations.

**Q: To whom can the donation be made?**

V4 Group: In order for a donation to be claimed as a tax-deductible item, it must be donated exclusively to the persons or organizations listed in the Income Tax Act and for a specifically defined purpose.

The donation must be provided to municipalities, regions, state organizational units, legal entities established in the Czech Republic, legal entities organizing public collections pursuant to a specific legal norms (or natural persons subject to the conditions defined in the aforementioned provisions) for a predetermined purpose, ie. financing of science, education, research and development, culture, education, police, fire protection, youth support and protection, animal protection and animal health, social, health, ecological, humanitarian, charitable, religious registered churches and religious societies of physical education and sports organizations, activities of political parties and movements (including European political parties and European political foundations).

In addition, donations may be made available to natural persons with residency in the Czech Republic who are providers of health services or who operate schools and school facilities and facilities for the protection of abandoned animals or endangered animal species, to finance such facilities.

Donations may also be provided to individuals with residency in the Czech Republic who are beneficiaries of disability pension or minors dependent on the care of another person under a special legal regulation for medical devices up to the amount not paid by health insurance companies or special aids under the legal norms regulating disability pensions, of up to an amount not covered by the contribution from the state budget and for assets facilitating education and employment.

A similar procedure shall apply to the free-of-charge considerations used to finance the elimination of the consequences of a natural disaster occurring in the territory of a Member State of the European Union or a State constituting the European Economic Area.

**Q: What documents need to be provided for a donation to be a deductible item?**

V4 Group: The donor must be able to prove that the donation was genuinely granted in the year in which he uses it for reducing the tax base. It is necessary to prepare in particular:

Donation contract or at least confirmation by the recipient of the donation, which clearly indicates the recipient's identification, the purpose for which the donation was provided and the date on which the donation was provided

Proof of payment or transfer of property (if the donation was provided in the form of tangible or intangible assets)

Additional evidence to show that the donation was actually spent for a defined purpose so that the donor can bear his / her burden of proof (e.g. photo documentation, website link, etc.)

**Q: What are the other context for deductions of legal entities or entrepreneurs in the case of donors?**

V4 Group: Granting a donation is considered a non-tax expense and the donor is obliged to increase the tax base in its tax return by the value of the donation and all related expenses (for example for consulting or expert services, etc.). It is necessary to apply this procedure not only in the case of spent donations in financial form, but also in the case of donated goods or property, as well as in the case of provided services - in any case the donation related expenses must be adequate (eg. cost of labor) excluded from tax costs.

This procedure is not changed by the fact that, subject to certain conditions (see in particular §15 and §20 of Act No. 586/1992 Coll. On the Income Tax), the donor may reduce its tax base by the relevant portion of the donation provided.

In the terms of Act No. 235/2004 Coll., On Value Added Tax, the gift, eventually providing commercial assets without remuneration (e.g. in the form of inventories of a business) in which the taxpayer deducted the output tax on the usual price. Pursuant to §29 par. 1 of the VAT Act, the donor is obliged to issue a proof of use and to pay VAT on this title.

 HUNGARY

**Q: What is donation ?**

V4 Group: It is important to distinguish that donations and grants, often used interchangeably, are two different concepts. Simply put, a grant is a broader category.

Donation: the subsidy, the grant, the carrying amount of an asset transferred or service provided free of charge in the tax year to support a non-profit organization its non-profit public activity, or a clerical legal entity, or for a public interest commitment, provided that it does not constitute a benefit beyond the terms of the Corporate Income Tax for the donor, a member or shareholder, a senior official, a member of the supervisory board or board of directors, an auditor or a close relative of such person or natural person (a reference to the name and activity of the donor doesn't qualify as financial advantage).

**Q: Is donation tax-deductible?**

V4 Group: Only in certain circumstances

Who can receive a donation?

- for a non-profit organization
- for a legal entity of the clarity
- for organizer of a public interest commitment

For what purpose can it be given?

- to support public non-profit activities as defined by law
- to support its activities as defined by law
- for a public interest purpose

Except as provided in the Corporate Income Tax Act, there shall be no financial advantage to the donor, member of the donor or shareholder, senior official, member of the supervisory board or board of directors, auditor, or close relative of such person or natural person member or shareholder (reference to the name and activity doesn't qualify as financial advantage).

The above shows how many criteria you need to meet in order for a grant to qualify as a grant. It can be read for example that an allowance for non-profit organization does not constitute a

donation, if it is provided for a purpose outside the law-defined non-profit public activity of the non-profit organization. We also need to keep in mind the timing, as you will need to provide the donation within the tax year in order to gain tax advantage.

**Q: Can I reduce the tax basis further?**

V4 Group: The Hungarian Corporate Income Tax law allows reduction of the pre-tax profit with donation provided

- to non-profit organizations in the frame of donation contract with the non-profit organization, as per the law of Civil Organizations to support charitable activities,
- to the Magyar Kármentő Fund,
- to the National Cultural Fund or
- to a higher education institution

in the frame of an agreement to grant non-repayable subsidy.

The reduction can be:

- 20 percent - 40 percent under a long-term donation agreement – in the case of a non-profit organization,
- 50 percent in the case of Magyar Kármentő Fund, the National Cultural Fund, and the Kárenyhítési Fund
- 50 percent in the case of grants to higher education institutions under a donation agreement,

but not more than the aggregate amount of the pre-tax profit.

A taxpayer may reduce its pre-tax profit if it has a certificate for the determination of tax base issued by the sponsored organizations.

**Q: Is 1% a donation?**

V4 Group: In the case of personal income tax, the taxpayers can give 1% of their tax to civil organizations, although this is not a real donation - only splitting the tax between government (99%) and supported civil organization (1%). In the case of corporate income tax there's no such option at all.



**Q: What can you donate?**

V4 Group: Cash, asset or service.

**Q: To whom you can make a donation?**

V4 Group:

- To non-profit organization to support their non-profit public activity
- To the Magyar Kármentő Fund, the National Cultural Fund, and the Kárenyhítési Fund
- To higher education institutions
- To the organizer of a public interest commitment Which

**Q: Which materials are needed to document a donation?**

V4 Group: Donation contract or long-term donation contract.

Certificate for the determination of tax base issued by the sponsored organizations, including the details of the sponsored organization, amount of donation and purpose of the donation.



**Q: What is donation ?**

V4 Group: A donation is a gratuitous gain on the part of the donee, reducing the assets of the donor. It means means that a donation occurs only if there is no return consideration received by the donor from the donee.

The donation agreement is defined in the Civil Code (consolidated text: Journal of Laws of 2019, item 1145), Article 888 et seq. Pursuant to these provisions, a donation agreement should be concluded in the form of a notarial deed, but even if concluded in other forms, it is still valid if performed (exceptions include, for example, real estate donation agreements, which always require the form of a notarial deed).

**Q: Are donations tax deductible?**



V4 Group: Donations may reduce the amount of tax due when it is provided for:

- public benefit organizations,
- religious worship,
- blood donations,
- vocational education provided by public vocational schools,
- church for its charity and caregiving activities.

Important! Donations are not deducted from the tax, but from the base used for its calculation, i.e. from income.

Blood donors can deduct the equivalent of PLN 130 per 1 liter of donated blood in their tax returns. During a single year a woman can deduct a maximum equivalent of 1.8 liters of blood, while a man – 2.7 liters of blood.

#### **Q: Is your 1% a donation?**

V4 Group: Polish taxpayers have the option of transferring 1% of their tax to public benefit organizations. This means that only those taxpayers who have tax to pay may transfer their 1% (as a consequence, all persons who incurred a loss, received an income tax refund, or had no income are not able to use this option).

It should be noted that the 1% of tax is not a donation, as the transfer is not associated with any reduction of the taxpayer's assets – it is just a shift of 1% of the tax paid to a specific social purpose.

#### **Q: What can be donated?**

V4 Group: Money and tangible assets can be transferred by way of donation. It is not possible to “donate” services. Free-of-charge services in Poland are treated as gratuitous considerations. It is not possible to reduce the tax base by the value of a gratuitous consideration.

It is worth noting that in the case of donations made to schools as well as public institutions and centers for the purpose of vocational education, tax base reduction is only applicable when teaching materials or fixed assets are donated, with the exclusion of teaching materials or fixed assets that are incomplete, unusable, or older than 12 years.

#### **Q: Who can receive donations?**

V4 Group: Donations can be made to any natural person or corporate entity. However, only donations made to entities indicated in the Act on Personal (Corporate) Income Tax and subject to the conditions specified in the acts can reduce taxable income. These include donations for:

- public benefit organizations,
- religious worship,
- blood donations,
- public schools providing vocational education for vocational training purposes
- church's charitable and caregiving activity.

**Q: What materials are required to document a donation?**

V4 Group: In the case of monetary donations, the confirmation of payment to the donee's bank account is the proof of its transfer. For non-monetary donations it is necessary to obtain a document indicating the value of the donation and the donee's declaration of its acceptance.

In order to settle a blood donation, one needs to obtain a certificate from the blood collection unit stating the amount of blood or its components donated free of charge by the taxpayer.

In the case of donations for a church's charitable and caregiving activity, the donor should obtain the following:

- confirmation of payment to a bank account, in the case of other donations – a document indicating the value of the donation and
- confirmation of receipt of the donation and a report stating the purpose of the donation as charitable and caregiving activity.

**Q: Are there any other important guidelines?**

V4 Group: Natural persons who chose flat tax for their businesses are not entitled to deduct donations from the tax base.

If a donation was classified by an entrepreneur as a tax deductible expense, it may not reduce the income tax base.

Entrepreneurs who make donations should remember that the donation of goods, materials, or other company assets may be associated with value added tax obligations.

The purpose of the donation is important for donations made to church-based corporate entities. If the donation is made for the purpose of religious worship, only a part corresponding to max. 6% (or 10% in the case of corporate income tax) of annual income can be deducted in the annual tax return. If the donation is provided for the charitable and caregiving activity of such institutions, then the entire amount of donation can be included.



**Q: What is a donation?**

V4 Group: In general, donation means money spent or other goods for which the recipient does not provide any consideration to the donor.

The definition of a donation contract and its essential requirements is determined in the provisions of § 628 et seq. of Act no. 40/1964 Coll. Civil Code. In donation contract, the donor gives or promises something to the recipient free of charge, and the recipient accepts the gift or promise. The donation contract must be made in writing if the subject of the donation is real estate and in the case of a movable thing, if the donation is not handed over or taken over. The donation contract, which it is to be performed only after the donor's death, is invalid. When offering a donation, the donor is obliged to draw attention to the defects he / she knows. If the thing has defects that the donor has not pointed out, the recipient is entitled to return the thing. A donor can claim back a donation if the recipient treats him or his family members in a way that grossly violates good morals.

**Q: Is donation tax deductible?**

V4 Group: Expenditure (expense) can be included in tax expenses only under the conditions set out in Act No. 595/2003 Coll. on Income Tax, as amended (hereinafter referred to as the “Income Tax Act”). According to ust. § 2 let. i) of the Income Tax Act, the tax expense is an expense (expense) for achieving, securing and maintaining taxable income demonstrably incurred by the taxpayer, recorded in the taxpayer's accounts or recorded in the taxpayer's records. In any case, donation does not correspond to such a definition of tax expenditure and therefore cannot be a tax deductible expenditure.

However, the income generated by donation is not subject to tax in the case of a natural person, as well as in the case of a legal person, except for gifts given to the healthcare provider by the holder.

**Q: What is the limit of tax deductible donation?**

V4 Group: Given that the donation is not a tax expense or a tax deductible item, there is no limit to the use of the donation as a tax expense.



However, within the meaning of § 50 et seq. The Income Tax Act, it is possible to remit the share of the tax paid, ie. tax assignment institute.

A natural person may remit a share of the tax paid of up to 2% to the chosen beneficiary, or up to 3% if the natural person carried out voluntary activity for at least 40 hours in the relevant tax period and submits a written confirmation thereof.

A legal entity may remit a share of the tax paid up to 1% to the chosen beneficiary, or up to 2% if that legal person has donated an amount corresponding to at least 0,5% of the tax paid.

**Q: What can be donated?**

V4 Group: Donations can be made in-cash, as well as in tangible (movable and immovable property) and intangible assets, goods or products. However, rights, property values, or service may also be provided as donations.

**Q: To whom can the donation be made?**

V4 Group: The gift can be provided in principle to anyone, natural person, legal entity, legal entity not established or not established for business purposes.

The share of the paid tax can be provided to a beneficiary who is a civic association, a foundation, non-investment fund, non-profit organization providing services of general interest, special-purpose facilities church and religious society, organization with international element, Slovak Red Cross, R&D entities, Education and training development fund.

Please note, however, that the share of the paid tax can be remitted to the beneficiary and used for purposes which are the subject of its activity, provided that its activity is:

- health protection and promotion; prevention, treatment, resocialization of drug addicts in the area
- health and social services,
- support and development of sport,
- provision of social assistance,
- preservation of cultural values,
- education support,
- protection of human rights,
- protection and creation of the environment,



- science and research,
- organizing and facilitating volunteering.

**Q: What documents need to be provided for a donation to be a deductible item?**

V4 Group: Donation must be, according to §628 of Act no. 40/1964 Coll. Civil Code, made in writing, if the object of the gift is real estate, and in the case of movable thing, if it is handed over during the donation.

The share of the paid tax is remitted to both the natural and legal person by means of a tax return for the taxation period, in that tax return identification of beneficiary should be listed, eventually the the share of the tax paid.

**Q: What are the other context for deductions of legal entities or entrepreneurs in the case of donors?**

V4 Group: Donation is considered a non-tax expense and a legal entity is obliged to increase the tax base by the value of the donation as well as all related costs (such as consultancy services or expert opinion, etc.) in the tax return. This procedure should be applied not only to donations in financial form, but also to donations of property, goods and services. In all cases, the relevant cost of the donation must be excluded from tax costs (eg in the value of the net book value of tangible assets or labor costs).

According to Act no. 222/2004 Coll. on Value Added Tax, a donation or commercial assets provided free of charge, is considered as a supply of goods for consideration ergo, are subject to output tax. The donor is obliged to issue a tax document and pay tax on the donated property.

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V4 Group for Social Impact Alliance for Central & Eastern Europe

