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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

SOUTH AFRICAN REVENUE SERVICE SUID-AFRIKAANSE INKOMSTEDIENS

No. R. 1163

6 September 2002

REGULATIONS ISSUED IN TERMS OF SECTION 18A(1A) OF THE INCOME TAX ACT, 1962 (ACT NO. 58 OF 1962), TO PRESCRIBE ADDITIONAL REQUIREMENTS FOR PURPOSES OF THAT SECTION, IN RESPECT OF PUBLIC BENEFIT ORGANISATIONS CARRYING ON ANY ACTIVITY CONTEMPLATED IN PARAGRAPH 4 OF PART II OF THE NINTH SCHEDULE TO THAT ACT

By virtue of the power vested in me by section 18A(1A) of the Income Tax Act, 1962, I, Trevor Andrew Manuel, Minister of Finance, hereby prescribe in the Schedule hereto, the additional requirements with which any public benefit organisation which carries on any activity contemplated in paragraph 4 of Part II of the Ninth Schedule to that Act, must comply before a donation made to that public benefit organisation shall be allowed as a deduction under section 18A.

T. A. MANUEL
MINISTER OF FINANCE

SCHEDULE

1. In these regulations, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Income Tax Act, 1962, bears the meaning assigned thereto.
2. Any public benefit organisation carrying on the activity of establishing and

managing a transfrontier conservation area, which—

- (a) forms part of the Republic and one or more other countries;
- (b) is or will fall under a unified or coordinated system of management without compromising national sovereignty; and
- (c) has been established with the explicit purpose of supporting the conservation of biological diversity, job creation, free movement of animals and tourists across the international boundaries within the transfrontier conservation area, and the building of peace and understanding between the nations concerned,

as contemplated in paragraph 4 of Part II of the Ninth Schedule to the Income Tax Act, 1962, must, in addition to any other requirement prescribed by section 18A of that Act, comply with the requirements contemplated in regulation 3, before any donation to that public benefit organisation shall be allowed as a deduction under that section.

3. The constitution or founding document of a public benefit organisation contemplated in regulation 2, must expressly provide that the organisation—

- (a) may not issue any receipt contemplated in section 18A(2) of that Act in respect of any donation made by a person to that public benefit organisation, unless—
 - (i) that donation is made by that person on or after 1 August 2002, but before 1 August 2005; and
 - (ii) that person has during the relevant year of assessment of that person donated an amount of at least R1 million to that organisation;
- (b) must ensure that every donation contemplated in paragraph (a) in respect of which a receipt has been issued in terms of section 18A(2), will be matched by a donation to that organisation of the same amount by a person who is not a resident and which is made from funds generated and held outside the Republic; and
- (c) must utilise the amount of—

- (i) all donations contemplated in paragraph (a) in respect of which a receipt has been issued in terms of section 18A(2) and income derived therefrom, in the Republic in carrying on the activity contemplated in regulation 2; and
- (ii) all donations contemplated in paragraph (b), either in the Republic in carrying on the activity contemplated in regulation 2, or on a transfrontier conservation area contemplated in regulation 2.

REGULASIES UITGEREIK INGEVOLGE ARTIKEL 18A(1A) VAN DIE INKOMSTEBELASTINGWET, 1962 (WET NO. 58 VAN 1962), OM DIE ADDISIONELE VEREISTES VOOR TE SKRYF VIR DOELEINDES VAN DAARDIE ARTIKEL, TEN OPSIGTE VAN OPENBARE WELDAADSORGANISASIES WAT DIE AKTIWITEIT IN PARAGRAAF 4 VAN DEEL II VAN DIE NEGENDE BYLAE BY DAARDIE WET BEDOEL, BEOEFEN

Kragtens die bevoegdheid aan my verleen deur artikel 18A(1A) van die Inkomstebelastingwet, 1962, skryf ek, Trevor Andrew Manuel, Minister van Finansies, hiermee in die Bylae hierby die addisionele vereistes voor waaraan enige openbare weldaadsorganisasie wat die aktiwiteit in paragraaf 4 van Deel II van die Negende Bylae by die Wet beoefen, moet voldoen alvorens 'n skenking aan daardie openbare weldaadsorganisasie as 'n aftrekking kragtens artikel 18A toelaatbaar sal wees.

T. A. MANUEL

MINISTER VAN FINANSIES

BYLAE

1. In hierdie regulasies, tensy uit die samehang anders blyk, het enige woord of uitdrukking waaraan 'n betekenis in die Inkomstebelastingwet, 1962, geheg word, die betekenis daaraan geheg.

2. Enige openbare weldaadsorganisasie wat die aktiwiteit beoefen van die vestiging en bestuur van 'n oorgrensbewaringsgebied, wat—

- (a) deel van die Republiek en een of meer ander lande vorm;
- (b) onder 'n gesamentlike of gekoördineerde stelsel van bestuur val of sal val sonder om nasionale soewereiniteit prys te gee; en
- (c) gestig is met die uitdruklike doel om die bewaring van biologiese diversiteit, werkskepping, vrye beweging van diere en toeriste oor die internasionale grense binne die oorgrensbewaringsgebied te ondersteun asook die bevordering van vrede en verstandhouding tussen die betrokke nasies,

soos in paragraaf 4 van Deel II van die Negende Bylae by die Inkomstebelastingwet, 1962, bedoel, moet addisioneel tot enige ander vereiste deur artikel 18A van daardie Wet voorgeskryf, aan die vereistes in regulasie 3 bedoel voldoen, alvorens enige skenking aan daardie openbare weldaadsorganisasie as 'n aftrekking onder daardie artikel toegelaat word.

3. Die konstitusie of stigtingsdokument van 'n openbare weldaadsorganisasie in regulasie 2 bedoel, moet uitdruklik bepaal dat die organisasie—

- (a) nie enige kwitansie in artikel 18A(2) van daardie Wet bedoel ten opsigte van enige skenking deur 'n persoon aan daardie openbare weldaadsorganisasie gemaak mag uitreik nie, tensy—
 - (i) daardie skenking deur daardie persoon gemaak is op of na 1 Augustus 2002, maar voor 1 Augustus 2005; en
 - (ii) daardie persoon gedurende die betrokke jaar van aanslag van daardie persoon 'n bedrag van minstens R1 miljoen aan daardie organisasie geskenk het;
- (b) moet toesien dat elke skenking in paragraaf (a) bedoel ten opsigte waarvan 'n kwitansie uitgereik word ingevolge artikel 18A(2), geëwenaar word deur 'n skenking aan daardie organisasie van dieselfde bedrag deur 'n persoon wat nie 'n inwoner is nie en wat gemaak word uit fondse wat buite die Republiek gegenereer en gehou word; en
- (c) die bedrag van—

- (i) alle skenkings in paragraaf (a) bedoel ten opsigte waarvan 'n kwitansie uitgereik is, en inkomste daaruit verkry, in die Republiek moet gebruik in die beoefening van die aktiwiteit in regulasie 2 bedoel; en
- (ii) alle skenkings in paragraaf (b) bedoel, of in die Republiek moet gebruik in die beoefening van die aktiwiteit in regulasie 2 bedoel, of ten opsigte van 'n oorgrensbewaringsgebied in regulasie 2 bedoel.

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