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**INCOME TAX ACT
(CHAPTER 134)**

**INCOME TAX (GRANT-MAKING PHILANTHROPIC
ORGANISATIONS) REGULATIONS 2009**

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In exercise of the powers conferred by section 37(18A) of the Income Tax Act, the Minister for Finance hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Income Tax (Grant-Making Philanthropic Organisations) Regulations 2009 and subject to paragraph (2), shall be deemed to have come into operation on 15th February 2007.

(2) No liability to pay any financial penalty under section 37(18B) of the Act shall arise in respect of any act or omission prior to 5th November 2009.

Definitions

2. In these Regulations —

“applicant” means the institution applying for registration under regulation 3;

“designated IPC fund” means a segregated account or fund that is designated only for donations to institutions of a public character;

“institution of a public character” has the same meaning as in section 40A of the Charities Act (Cap. 37);

“International Organisations Programme Office” means the agency established by the Government to facilitate international organisations of a non-profit nature in locating their regional headquarters and key activities in Singapore;

“matters relating to registration” means the registration of a grant-making philanthropic organisation under regulation 3 and removal from the register under regulation 5;

“registered grant-making philanthropic organisation” means a grant-making philanthropic organisation registered under regulation 3(3);

“specified institution”, in relation to a donation, means the institution of a public character specified by the donor to receive the donation;

“tax deductible donation” means a donation intended for and made indirectly to any institution of a public character through a registered grant-making philanthropic organisation, and which qualifies for tax deduction under section 37(3)(c)(ii) of the Act.

Registration as a grant-making philanthropic organisation

3.—(1) An application for registration as a grant-making philanthropic organisation shall be made to the Comptroller.

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- (2) An application under paragraph (1) shall —
- (a) be in such form and include such information as the Comptroller may require;
 - (b) include an undertaking by the applicant that it will comply with the conditions referred to in regulation 4(b); and
 - (c) where a designated IPC fund is intended to be an endowment fund, include a proposal on how the funds will be disbursed over the life of the designated IPC fund, including the amount to be disbursed, the intended recipient of the disbursement, the intended purposes and programmes.
- (3) The Comptroller may register an applicant as a grant-making philanthropic organisation if —
- (a) the application complies with paragraph (2);
 - (b) the applicant satisfies the conditions for registration in regulation 4; and
 - (c) the registration of the applicant will not be contrary to the public interest.

Conditions for registration

4. An institution may be registered as a grant-making philanthropic organisation if it satisfies the following conditions:

- (a) it is —
 - (i) a charity registered or exempt from registration under the Charities Act (Cap. 37); or
 - (ii) a not-for-profit organisation approved under section 13U of the Act;
- (b) it undertakes to comply with the following conditions:
 - (i) it shall channel every tax deductible donation to a designated IPC fund;
 - (ii) it shall issue a tax deduction receipt for every tax deductible donation received;

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- (iii) unless otherwise approved by the Minister or provided by regulation 11, it shall disburse every tax deductible donation within 5 years from the date of receipt of such donation to an institution of a public character, which shall be the specified institution, if any;
 - (iv) upon dissolution of the designated IPC fund, it shall within one month, distribute any residual funds or assets in the account of the designated IPC fund to specified institutions if any, and then to any one or more institutions of a public character;
 - (v) it shall institute appropriate procedures to ensure that —
 - (A) every tax deductible donation is disbursed in accordance with sub-paragraph (iii); and
 - (B) the correct amount of tax deductible donation is disbursed to the respective institutions;
 - (vi) it shall keep comprehensive records pertaining to every tax deductible donation, including the name of each donor, the date of donation, the amount of donation received from each donor and the particulars of tax deduction receipt issued in respect of such donation;
 - (vii) it shall keep the records referred to in sub-paragraph (vi) for a period of 7 years, or such longer period in the case of an endowment fund as may be specified under regulation 11, from the year of assessment relating to the year in which the donation is received by it;
 - (viii) it shall subject the designated IPC fund to an external audit annually and it shall submit to the Comptroller the audited accounts of the designated IPC fund within one month of the date of the audit report;
 - (ix) it shall only accept donations on terms that allow it to comply with these conditions and any other requirements of these Regulations; and

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- (x) such other conditions for registration as the Comptroller may specify.

Removal from register

5.—(1) The Comptroller shall remove an institution from the register of grant-making philanthropic organisations if —

- (a) the institution is no longer a charity registered or exempt from registration under the Charities Act (Cap. 37) or a not-for-profit organisation approved under section 13U of the Act;
- (b) the institution has failed to comply with any of these Regulations at any time during the period it was registered as a grant-making philanthropic organisation;
- (c) there is or has been any mismanagement, misconduct, incompetence or negligence in the administration of the institution as a grant-making philanthropic organisation; or
- (d) the continued registration of the institution as a grant-making philanthropic organisation is contrary to the public interest.

(2) Where an institution has been removed from the register of grant-making philanthropic organisations under this regulation —

- (a) any donation received by the institution on or after the date it was removed from the register of grant-making philanthropic organisations shall not qualify as a tax deductible donation;
- (b) the institution shall not issue any tax deduction receipt under regulation 8 in respect of donations made to it on or after the date it was removed from the register of grant-making philanthropic organisations; and
- (c) it shall, within one month of the date of removal, distribute any residual funds or assets in the account of the designated IPC fund to specified institutions if any, and then to any one or more institutions of a public character.

(3) An institution which fails to comply with paragraph (2)(b) or (c) shall be liable to pay to the Comptroller a financial penalty under section 37(18B) of the Act.

Administration of funds

6.—(1) A registered grant-making philanthropic organisation shall —

- (a) channel the full amount of every tax deductible donation to a designated IPC fund;
- (b) ensure that the sums (including investment returns) standing in the designated IPC fund are not co-mingled with funds standing in any other fund or account;
- (c) ensure that the sums (including investment returns) standing in the designated IPC fund are not used for any purpose other than for disbursement to an institution of a public character;
- (d) upon dissolution of the designated IPC fund, distribute any residual funds or assets in the account of the designated IPC fund to specified institutions if any, and then to any one or more institutions of a public character;
- (e) institute proper procedures to ensure that every tax deductible donation is held and disbursed correctly and appropriately in accordance with these Regulations; and
- (f) subject the designated IPC fund to an external audit annually and submit to the Comptroller the audited accounts of the designated IPC fund within one month of the date of the audit report.

(2) A registered grant-making philanthropic organisation which fails to comply with paragraph (1)(c) shall be liable to pay to the Comptroller a financial penalty under section 37(18B) of the Act.

Use of donations

7.—(1) A registered grant-making philanthropic organisation shall use any tax deductible donation received by it in accordance with this regulation.

(2) Where the donor has specified the institution of a public character to which the tax deductible donation shall be made, the donation shall be made to the specified institution.

(3) Where the donor has not specified the institution of a public character to which the tax deductible donation shall be made, the donation shall be made to any institution of a public character.

(4) Subject to regulation 11, the registered grant-making philanthropic organisation shall disburse any tax deductible donation to the institution of a public character within 5 years from the date such donation was received by it.

(5) A registered grant-making philanthropic organisation which fails to comply with paragraph (2), (3) or (4) shall be liable to pay to the Comptroller a financial penalty under section 37(18B) of the Act.

Issue of tax deduction receipts

8.—(1) A registered grant-making philanthropic organisation shall, upon receipt of every tax deductible donation, issue a printed tax deduction receipt.

(2) A tax deduction receipt issued under paragraph (1) shall be in such form as the Comptroller may specify and shall —

(a) incorporate the following statement:

“This receipt is for your retention. This donation is tax deductible and the deduction will be automatically included in your tax assessment as you have provided your Tax Reference number (e.g. NRIC/FIN/UEN). You do not need to claim the deduction in your tax form.”;

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(b) be serially numbered; and

(c) be signed by either the treasurer of the registered grant-making philanthropic organisation or by any person to whom such function is delegated by its trustees.

(3) A registered grant-making philanthropic organisation shall be liable to pay to the Comptroller a financial penalty under section 37(18B) of the Act if —

(a) it has issued a tax deduction receipt which ought not to be issued; or

- (b) it has issued a tax deduction receipt showing an amount higher than the amount of tax deductible donation received.

Maintenance of records

9.—(1) Every registered grant-making philanthropic organisation shall keep proper and comprehensive accounts and other records in respect of tax deductible donations received and shall do all things necessary to ensure that all payments out of the receipts are correctly made and properly authorised.

(2) The record shall include —

(a) in respect of every tax deductible donation received —

- (i) the receipt number of tax deduction receipt issued under regulation 8;
- (ii) the name and identification number or corporate or business registration number, of the donor;
- (iii) the date of receipt of the donation;
- (iv) the amount of donation received; and
- (v) the specific institution of a public character to which the tax deductible donation is to be made, if applicable;

(b) in respect of tax deductible donations disbursed —

- (i) the date of disbursement;
- (ii) the amount disbursed; and
- (iii) the institution of a public character to which the disbursement is made; and

(c) details of all the income received and the expenses incurred in respect of the designated IPC fund.

Duty to furnish documents

10.—(1) Every registered grant-making philanthropic organisation shall, within 6 months from the last day of each accounting period or within such period as may be allowed by the Comptroller, furnish the following to the Comptroller:

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- (a) the accounts of the designated IPC fund of the registered grant-making philanthropic organisation audited by a certified public accountant in Singapore;
 - (b) the audit report referred to in sub-paragraph (a);
 - (c) the audit report relating to the collection, disbursement and investment of the tax deductible donations;
 - (d) the details of every tax deductible donation received and disbursed in such form as may be specified by the Comptroller; and
 - (e) such other information or document as may be required by the Comptroller.

(2) Every registered grant-making philanthropic organisation shall furnish to the Comptroller the details of every tax deductible donation received in the year immediately preceding the year of submission of such details, in such form as may be specified by the Comptroller, no later than the last day of January of each year.

Endowment fund

11.—(1) Where a designated IPC fund of a registered grant-making philanthropic organisation is an endowment fund, the registered grant-making philanthropic organisation shall, subject to paragraph (3), comply with the following additional requirements:

- (a) it shall set up a separate designated IPC fund for any tax deductible donation received after the date on which any existing designated IPC fund is set up;
- (b) subject to these Regulations, it shall only issue tax deduction receipts for donations intended for that designated IPC fund;
- (c) instead of the full disbursement within 5 years under regulation 4(b)(iii), it shall fully disburse all the tax deductible donations received within 25 years from the date that the designated IPC fund is set up, in accordance with the following conditions until full disbursement:
 - (i) in respect of all tax deductible donations received on the date that the designated IPC fund is set up, partial

disbursements must be made annually with the total disbursements over each 5-year period (beginning from the date the designated IPC fund is set up) being no less than 20% of the total amount of tax deductible donation standing as at the date the designated IPC fund is set up; and

- (ii) in respect of any additional tax deductible donation received after the designated IPC fund is set up, partial disbursements of the additional donation must be made annually with the total disbursements over each 5-year period referred to in sub-paragraph (i) (from the period it is received) being no less than 20% of such additional donation; and

- (d) it shall submit, at the end of every 5-year period referred to in sub-paragraph (c), to the Comptroller a declaration that the conditions in that sub-paragraph are satisfied.

(2) When paragraph (1) applies, the registered grant-making philanthropic organisation shall keep and retain in safe custody all records and accounts for a period of 27 years from the year of assessment relating to the year in which a donation was first received by the organisation, or where the total amount of the donation is fully disbursed before the end of 25 years from the year of assessment relating to the year in which a donation was first received by the organisation, for a period equal to

			A + 2,		
	where	A	is the number of years from the year of assessment relating to the year in which a donation was first received by the organisation, to the year of assessment relating to the year in which the donation is fully disbursed by the organisation (both years of assessment inclusive).		

- (3) The Minister may vary the requirements in paragraphs (1)(a) and (c) and (2) on the application of a registered grant-making

philanthropic organisation, subject to any conditions that he may impose.

(4) A registered grant-making philanthropic organisation which fails to comply with paragraph (1)(b) and (c) shall be liable to pay to the Comptroller a financial penalty under section 37(18B) of the Act.

Information from relevant agencies

12. In considering matters relating to registration, the Comptroller shall take into account the views of and any information provided by the Commissioner of Charities appointed under the Charities Act (Cap. 37) or the International Organisations Programme Office.

Financial penalties not to affect other rights and liabilities

13. The imposition of a financial penalty under these Regulations does not affect any rights a donor may have in law or equity against the grant-making philanthropic organisation.

Made this 2nd day of November 2009.

PETER ONG BOON KWEE
*Permanent Secretary,
Ministry of Finance,
Singapore.*

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