

# Tax treatment of sponsoring 1/38/21



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The **Public Benefit Organisations (PBO) Act** defines a donation but the concept of sponsoring remains undefined. In practice, companies that sponsor events organised by PBOs might wonder whether sponsoring has the same tax treatment as a donation. This article explores the tax implications of sponsoring PBOs.

## The substance of a sponsoring deal

The **PBO Act** and other statutes are silent on the concept of sponsoring. Sponsoring is essentially a transaction that mutually benefits both the sponsor and the party being sponsored. In other words, one party to the transaction provides financial support to the other by mutual agreement and receives services in return. Those services usually involve either advertising activities (to advertise products and the company) or representation activities (to represent the company during an event).

**Section 9 of the PBO Act** defines a donation as a transfer of assets or funds to a PBO for no consideration by mutual agreement to achieve the aims set by the PBO's articles of association.

So donation and sponsoring are essentially different concepts, and we need to be aware that their tax treatment is also different.

## The CIT and VAT treatment

When offering financial support to a PBO, it is important to separate donation from sponsoring. **Section 8(1) of the Corporate Income Tax Act** states that in identifying non-business expenses, the company should assess the economic substance as well as the legal form of the transaction. When it comes to entering into a contract, attention should be paid to how clearly the terms of the contract are set out to ensure a third party understands the substance of the transaction. The PBO's counter-obligation to the company should also be clearly described, i.e. what services are to be received.

So the tax treatment depends on the substance of services received and on whether the company needs them for business purposes.

If the company receives advertising services in return for transferring funds to the PBO, the company incurs advertising costs that are associated with its business and exempt from CIT, and the company can also deduct any input VAT paid.

If the company receives representation services in return, the company incurs representation costs. Any excess over the statutory limit of 5% attracts CIT, and there are restrictions on how much input VAT can be deducted.

Sometimes a PBO receives funds to organise an event but no counter-service is envisaged or the company receives services that are not necessary for its business. Such sponsoring costs fit the definition of non-business expenses and attract CIT, plus there is no right to deduct input VAT.

So, any sponsoring costs that are not donations within the meaning of the CIT Act do not qualify for CIT relief available under [section 12\(1\) of the CIT Act](#).