

Donations for Ukraine and corporate tax 3/16/23



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Neither the Corporate Income Tax (CIT) Act nor the Ukrainian Civilians Support Act ("Ukraine Act") laid down any special procedures or easy terms for the CIT treatment of donations intended to help victims in Ukraine until the Ukraine Act was amended with effect from 7 April to add a new section, 11.4: Corporate Income Tax Relief for Donors. This article explores the special rule and how it's supposed to be applied.

Section 11.4 of the Ukraine Act provides that a taxpayer donating for assistance in Ukraine may keep the donation out of his taxable base and avoid section 12(1) of the CIT Act if the following criteria are met simultaneously:

- The donation is made to a public benefit organisation or state-funded institution that forwards cash and non-cash donations to Ukraine for helping victims.
- The purpose of the donation indicated to the donee directly refers to funds destined for Ukraine.
- The donor has no arrears of taxes (duties) totalling over EUR 150, according to the taxes (duties) debtors database administered by the State Revenue Service.

Differences from the general treatment of donors

The general rule provides that donors may take one of three reliefs available under section 12(1) of the CIT Act. Each method of relief prescribes an amount of donations that may stay out of the taxpayer's CIT base. If a company claims relief under section 12(1), then its CIT return must specify the method of relief and the qualifying amount of donation.

If a company uses the Ukraine Act's special procedure for donors, the full donation is a business expense, stays out of the taxable base, and escapes CIT.

A company taking relief under section 12(1) of the CIT Act must have a donation agreement with the donee. If CIT relief is claimed under the Ukraine Act, an agreement is not required.

Accordingly, a company making donations to help victims in Ukraine may choose to continue taking the types of relief available under the CIT Act's section 12 or to claim relief under the Ukraine Act. As regards the section 12 relief, all the conditions of this section must be met as before. A company applying the special rule should make sure that the donee has appropriate status and that the company's tax debt does not exceed EUR 150, and it should correctly state the purpose of the donation.