

23 October 2008

William C. Chasey
President
Foundation for Corporate Social Responsibility
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Re: Tax implications of cash donations to a Foundation

Dear Mr. Chasey,

Norton Rose Piotr Strawa i Wspólnicy sp. kom. has been requested to present an opinion regarding the general tax implications of cash donations made to the Foundation for the members of such a Foundation.

The provisions of tax law which are to be taken into consideration for the assessment of the legal consequences include first and foremost Art.18 sec.1 and subsequent provisions of the act on income tax from legal entities and Art.26 sec.1 and subsequent provisions of the act on income tax from natural persons. In the present opinion we shall focus on tax issues related to legal entities.

The provisions of tax law provide for the ability to deduct from taxable income (income calculated according to separate regulations) donations for specific purposes defined in Art.4 of the act of 24 April 2003 on activities for the public benefit and voluntary services (the „Act”) made to organizations set out in Art.3 sec.2 and 3 of the Act. According to the Statute of the Foundation provided to us, the Foundation is a non-government organization which realizes goals set out in its Statute including provision of financial, in-kind and educational assistance to harmed persons and persons in difficulty, access to medical services and other health care benefits, supporting educational services etc. This appears to indicate that the Foundation fulfills the requirements/objectives defined in Art.4 of the Act. This provides grounds for the members of the Foundation who make cash donations to Foundation to deduct such donations from their taxable income, subject however to certain restrictions imposed by tax law.

According to tax regulations the total amount of donations cannot exceed 10% of the taxpayer’s income in a given fiscal year. “Total” means that the donations made for the purposes set out in Art.4 of the Act on activities for the public benefit and donations made for religious cult are treated on a cumulative basis.

It is to be noted that the following conditions must be met in order for the amount of a donation to be deducted from taxable income. Firstly the donation must be made for the public benefit as stipulated in Art.4 of the Act, and secondly, the grounds for deducting the donation consists in an appropriate document in the form of a confirmation of payment to the bank account of the Foundation.

In our opinion, considering the Statute of the Foundation and the activities undertaken by it, the cash donations made to the Foundation by its members for public benefit purposes may be deducted from the taxable income of a given taxpayer making the donation, provided the requirements set out in the provisions of law are met, as discussed above. The cash donations are not subject to VAT within the meaning of the act of 11 March 2004 on the goods and services tax.

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Please note that this advice is provided for the exclusive use of the Foundation. We advise any member of the Foundation who wish to make a cash donation to the Foundation to first seek advice from an independent counsel regarding the tax consequences of cash donation in each case.

Yours sincerely

Marcin Romanczuk
Tax Advisor