

GBVF RESPONSE FUND - section 18A framework

18A status	Approval granted by SARS with effect from 12 February 2021
	- Section 18A(1)(a) status (PBO that conducts Part II PBA)
	✓ 2.1 The care or counselling of , or the provision of education programmes relating to, physically or mentally abused and traumatized persons
	✓ 2.2 The protection of the safety of the general public
Qualification as a donation for section 18A purposes	- Section 18A(1)(b) status (Conduit PBO)
	✓ 2.3 The Provision of funds and assets to: <ul style="list-style-type: none"> - PBOs approved for section 18A(1)(a) purposes; or - Section 10(1)(cA)(i) institutions approved for section 18A(1)(a) purposes; or - State department (national, provincial or local government)
	18A receipt may only to be issued in respect of:
	<i>bona fide</i> donations
	✓ of cash (include payments by electronic fund transfer (EFT), credit or debit card, or postal order) or
	✓ of property in kind
	✓ If gifted with a designated purpose, such designation will fall within the ambit of a Part II PBA (approved 18A project) and its application does not directly or indirectly benefit the donor or a connected person to the donor
	That were actually received by or transferred to the Fund
	Contributions that do not qualify for 18A
	✗ Donations with conditions where the donor or connected persons to the donor directly or indirectly benefits from the application of the donation (not a <i>bona fide</i> donation)
	✗ Any donation of services (whether or not it constitutes a <i>bona fide</i> donation)
	✗ Amounts paid to attend a fundraising event such as a dinner or charity golf day (not a <i>bona fide</i> donation)
	✗ Memorabilia and other assets donated to be auctioned to raise funds (donated assets not used for Part II PBA)
✗ Amounts paid for raffle or lottery tickets (not a <i>bona fide</i> donation)	
✗ Amounts paid for the successful bid for goods auctioned to raise funds (not a <i>bona fide</i> donation)	
✗ The value of free rent, water and electricity provided by a lessor to the lessee that is a section 18A-approved organisation. (not donation of property)	
✗ Payments of debt owed by a section 18A-approved organisation, for example, the cost of repairs to a section 18A-approved organisation's vehicle paid to the service station on behalf of that organisation and not paid directly to the section 18A-approved organisation (not actually received by the PBO)	
✗ Prizes and sponsorships donated for a fundraising event such as a charity golf day (not a <i>bona fide</i> donation)	
✗ Membership fees (not a <i>bona fide</i> donation)	
✗ Promissory notes, Pledges or Payments made in future instalments and post-dated cheques (not actually received)	

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A section 18A receipt may be issued in respect of any qualifying donation -

If the donor has within the reasonable period as stated in the donor policy, requested a section 18A receipt

If all the information required to issue a valid 18A receipt, is readily available to the fund. A valid 18A receipt must include the following information:

- ✓ The PBO number that appears on the SARS exemption letter
- ✓ The date of the receipt of the donation;
- ✓ The name of the Fund that received the donation together with an address to which enquiries may be directed in connection therewith;
- ✓ The name and address of the donor;
- ✓ The amount of the donation (cash donations) or the nature of the donation (if not made in cash); or
The nature of the donation in kind
- ✓ a certification to the effect that the receipt is issued for the purposes of section 18A of the Income Tax Act, 1962, and that the donation has been or will be used exclusively for the object of the public benefit organisation (where the object includes Part I and part II PBA, state the relevant Part II PBA)

Issue of a section 18A receipt

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Utilisation and distribution of 18A funds

18A funds must be applied

- for approved 18A projects that fall within the following activities:

- ✓ 2.1 The care or counselling of , or the provision of education programmes relating to, physically or mentally abused and traumatized persons
- ✓ 2.2 The protection of the safety of the general public

- to on-distribute as funds or assets to qualifying organisations only:

- ✓ - PBOs approved for section 18A(1)(a) purposes; or
- ✓ - Section 10(1)(cA)(i) institutions approved for section 18A(1)(a) purposes; or
- ✓ - State department (national, provincial or local government)

18A funds may NOT be utilised for

- ✗ 2.3 The Provision of funds and assets to organisations (only) approved for the purposes of section 18A(1)(b)
- ✗ 2.3 The Provision of funds and assets to organisations approved for the purposes of section 18A(1)(a) and 18A(1)(b) for ondistribution to another organisation
- ✗ 2.3 The Provision of resources or services to other organisations
- ✗ 2.4 The provision of support services to, or promotion of the common interests of public benefit organisations contemplated in section 30 or institutions, board or bodies contemplated in section 10(1)(cA)(i), which conducts one or more public benefit activities contemplated in Part I of the Ninth Schedule to the Act.

Distribution obligations

- Minimum annual distribution obligation: As a conduit PBO the Fund must distribute or incur the obligation to distribute -

- ✓ within 12 months after the end of the relevant financial year
- ✓ at least 50% of all funds received by way of donation in respect of which receipts were issued
- ✓ Unless SARS directs otherwise

- In respect of undistributed 18A funds: as a conduit PBO the Fund must distribute or incur the obligation to distribute

- ✓ all amounts received in respect of investment assets held by it (other than amounts received in respect of disposals of those investment assets to section 18A(1)(a) or 18A(1)(c) approved organisation
- ✓ no later than six months after every 5 years commencing on 12 February 2021

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Recordkeeping & reporting iro 18A receipts

Ringfencing requirement



Combination PBOs are required per SARS Guide to ringfence the Part II PBAs and their funding (ringfence = to assign donations for which section 18A receipts were issued to a particular purpose, so as to restrict their use to the carrying on of PBAs in Part II in South Africa).

Recordkeeping



Per SARS Guide the record-keeping must clearly identify the donations received for PBAs in Part II and the use to which those donations were applied.

The Fund must annually -

- Submit an IT12 EI return with



The total number of 18A receipts as well as the total monetary value of the 18A receipts issued during the year of assessment



The total number of 18A receipts as well as the total monetary value of the 18A receipts issued during the year of assessment

- Prepare and keep -



A list of all section 18A receipts issued with the information as noted above as well as the designation of / or how the funds were used.

New SARS reporting obligations to be announced soon!

- Obtain and keep -



An audit certificate that all donations received or accrued in that year in respect of which 18A receipts were issued were utilised in a manner as contemplated in section 18A(2A)

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Where the conduit PBO has not within 6 months after the 5 year period distribute or incurred an obligation to distribute all amounts received in respect of investment assets held by it ...

= those amounts shall be deemed to be taxable income of that public benefit organisation in that year of assessment

Where any person in a fiduciary capacity responsible for the management or control of the income or assets

- ✓ In any material way failed to ensure that the objects are carried out; or
- ✓ has expended moneys belonging to the fund for purposes not covered by the PBO's objects; or
- ✓ issued or allowed a 18A receipt to be issued in respect of fees or other emoluments (i.e. payments for services); or
- ✓ issued or allowed a 18A receipt to be issued in contravention with section 18A(2A) - for Part II projects; or
- ✓ utilised funds in respect of which a 18A receipt was issued for any purpose other than Part II project / distribution to qualifying recipients for Part II project funding; or
- ✓ failed to obtain and retain an audit certificate as contemplated in section 18A(2B)

= SARS may direct the value of the 18A donation(s) will be deemed taxable income of the Fund; and

= SARS may direct the any donation made on/after a specified date to the Fund does not qualify as a valid 18A receipt (if no corrective steps are taken as instructed)

- ✓ who intentionally fails to comply with any provision of section 18A, or the Memorandum of Incorporation to the extent that it relates to section 18A

= guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding 24 months