Law of the People's Republic of China on Donations for Public Welfare

(Adopted at the 10th Meeting of the Standing Committee of the Ninth National People’s Congress on June 28, 1999 and promulgated by Order No. 19 of the President of the People’s Republic of China on June 28, 1999)

Contents

Chapter I General Provisions

Chapter II Making and Accepting a Donation

Chapter III Use and Control of Property donated

Chapter IV Preferential Measures

Chapter V Legal Responsibility

Chapter VI Supplementary Provisions
Chapter I General Provisions

Article 1 This Law is enacted for the purpose of encouraging donating, regulating the making and accepting of a donation, protecting the lawful rights and interests of the donor, donee and beneficiary and promoting the development of public welfare undertakings.

Article 2 This Law shall be applicable where any natural person, legal person or organization, for the benefit of public welfare, voluntarily donates property gratis to any legally formed community public welfare organization or nonprofit public welfare institution.

Article 3 For purposes of this Law, the term “public welfare” includes the following nonprofit activities:

(1) activities by community groups or individuals in disaster relief or poverty relief, or in giving assistance to the disabled;

(2) educational, scientific, cultural, public health and sports services;

(3) environmental protection and public utility construction; and

(4) other public and welfare services to promote social development and progress.

Article 4 Donation shall be made voluntarily and gratis. Any allocation of donations by compulsion or in disguised form shall be prohibited and no profit-making activity may be conducted in the name of donation.

Article 5 The donor’s wishes for the use of property donated shall be respected and such property shall be used in conformity with public welfare purposes and may not be used for any other purposes.

Article 6 Donation shall be made in compliance with laws and regulations, not against the code of social conduct, nor to the detriment of public interests and the lawful rights and interests of other.

Article 7 The property donated to community public welfare organizations and its added value are public property and shall be protected by State laws. No unit or individual may seize, misappropriate or damage it.

Article 8 The State promotes the development of public welfare undertakings, and it supports and gives preferential treatment to community public welfare organizations and nonprofit public welfare institutions.

The State encourages natural persons, legal persons or organizations to donate to public welfare.
Any natural person, legal person or organization that makes prominent contribution to donation for public welfare shall be cited by the people’s government or the department concerned. The donor shall be consulted before he is cited in.

Chapter II Making and Accepting a Donation

Article 9 Any natural person, legal person or organization may choose the community public welfare organizations or nonprofit public welfare institutions which he/it thinks conforms to his/its wishes of donation. The property donated shall be the lawful property which he/it has the right to dispose of.

Article 10 Any community public welfare organization or nonprofit public welfare institution may accept donations in accordance with this Law.

For the purposes of this Law, the term “community public welfare organizations” refers to foundations or charities and other community organizations which are formed in accordance with law and for the purposes of promoting public welfare services.

The term “nonprofit public welfare institutions” refers to institutions of education, scientific research, medicine and public health, public culture, public sports and public welfare services, etc., which are formed in accordance with law and engaged in public welfare services with no profit-making purposes.

Article 11 When natural disaster occurs or a donor from outside China requests that the people’s government at or above the county level or one of its departments be the donee, the said people’s government or the department may accept the donation, and it shall control the property donated in accordance with the relevant provisions in this Law.

The people’s government at or above the county level or its department may transmit the donated property to a community public welfare organization or a nonprofit public welfare institution; or it may also distribute the property or use it to set up public welfare establishments according to the donor’s wishes; however, it may not be the beneficiary itself.

Article 12 The donor may conclude a donation agreement with the donee on matters of the type, quality, quantity and purpose of use of the property to be donated. The donor shall have the right to decide on the quantity, purpose of use and form of donation.

The donor shall fulfill the donation agreement in accordance with law, and send the property donated to the donee within the time limit and in the form specified in the donation agreement.

Article 13 Any donor who donates property for building a public welfare project shall conclude a donation agreement with the donee on matters of funding, construction, management and use of the project.
The donee shall, in accordance with relevant State regulations, be responsible for going through the formalities of examination and approval for the donated public welfare project and for making arrangements for construction, or the construction may be arranged jointly by the donee and the donor. The quality of the construction project shall meet the national standard.

Upon completion of the donated public welfare project, the donee shall inform the donor of the construction, use of the funds and checking and acceptance of the construction quality.

Article 14 The donor may have his name inscribed on the project donated for public welfare. The donor may propose a title for a project which he himself donates or the bulk of the funds for the construction of which is provided by him, and the title shall be submitted to the people’s government at or above the county level for approval.

Article 15 Where the property is donated by a donor from outside China, the donee shall be responsible for going through the customs formalities according to relevant State regulations. If what is donated is under the control of the license system, the donee shall be responsible for applying for license in accordance with relevant State regulations, and the customs shall, on the basis of the license, let it pass after inspection and exercise supervision over it.

Where an overseas Chinese makes donation into China, the department in charge of overseas Chinese affairs under the people’s government at or above the county level may assist in going through the customs formalities and help the donor put into effect the donated project.

Chapter III Use and Control of Donated Property

Article 16 When a donee receives a donation, he shall give the donor a lawful and valid receipt, keep a register of the donation and take good care of it.

Article 17 Community public welfare organizations shall use the donated property to fund activities or undertakings that conform to their aims. They shall, without delay, distribute the property donated for disaster relief. The amount of funds allocated annually by foundations for public welfare shall be no less than the proportion fixed by the State.

All community public welfare organization shall strictly observe relevant regulations of the State and, in adherence to the principles of lawfulness, safety and effectiveness, maintain and add value to the property donated in an active way.

The nonprofit public welfare institutions shall use the property donated to them to promote the public welfare services of their own units and may not use it for any other purpose.

Where the property donated is not preservable or transportable or exceeds the actual need,
the donee may sell it, and all the income therefrom shall be used for purposes as designed by donation.

Article 18 Where the donee has concluded a donation agreement with the donor, he shall use the donated property according to the purpose of use prescribed in the agreement and may not alter the said purpose of use without authorization. Where such alteration is actually needed, he shall seek permission from the donor.

Article 19 The donee shall, in accordance with relevant State regulations, set up a sound financial and accounting system and the system for the use of the property donated in order to keep the donated property under strict control.

Article 20 The donee shall be subjected to supervision by the relevant government department, submitting to it a report annually on the use and control of the donated property. When necessary, the said department may examine the donee’s accounts.

The customs shall, in accordance with law, exercise supervision and control over the donated goods or materials that are granted duty deduction or exemption.

The department in charge of overseas Chinese affairs under the people’s government at or above the county level may participate in supervising the use and control of the property donated to China by overseas Chinese.

Article 21 The donor shall have the right to inquire of the donee about the use and control of the donated property and put forward his comments and suggestions. The donee shall give truthful answers to the donor’s inquiries.

Article 22 The donee shall be subjected to public supervision, making public the donations received and the use and control of the donated property.

Article 23 All community public welfare organizations shall practise strict economy to reduce managerial cost and the salaries of the staff members and the overhead expenses shall be covered by interest and other incomes according to the standards set by the State.

Chapter IV Preferential Measures

Article 24 Any company or any other enterprise which, in accordance with this Law, donates property for public welfare, shall, in accordance with the provisions of the laws and administrative rules and regulations, enjoy preferential treatment in income tax levied on enterprises.

Article 25 Any natural person or any self-employed individual in industry or commerce who, in accordance with this Law, donates property for public welfare shall, in accordance with the provisions of the laws and administrative rules and regulations, enjoy preferential treatment in individual income tax.
Article 26 Customs duties and value added taxes levied on imported goods and materials which are donated for public welfare to community public welfare organizations and nonprofit public welfare institutions shall, in accordance with the provisions of the laws and administrative rules and regulations, be reduced or exempted.

Article 27 Local governments shall support and give preferential treatment to donated projects.

Chapter V Legal Responsibility

Article 28 Any donee who, without permission of the donor, alternates the nature or purpose of use of the property donated, shall be ordered to put it right and given disciplinary warning by the relevant department under the people’s government at or above the county level. Where such donee refuses to put it right, the people’s government at or above the county level shall, after consulting the donor, put the property under the control of a community public welfare organization or a nonprofit public welfare institution whose aim is the same or similar to that of the said donee.

Article 29 Whoever misappropriates, seizes or embezzles donated money or property shall be ordered to return the said money or property and be fined by the relevant department under the people’s government at or above the county level. The person who is directly responsible shall be dealt with in accordance with relevant regulations by the unit he belongs to. If a crime is constituted, the person shall be investigated for criminal responsibility in accordance with law.

The said money or property recovered in accordance with the provisions in the previous paragraph shall be used for the previous aim and purpose previously designed.

Article 30 In donation activities, any of the following acts shall be punished in accordance with the relevant provisions in laws and regulations, and if a crime is constituted, criminal responsibility shall be investigated in accordance with law:

1. evading foreign exchange or purchasing foreign exchange by fraud;

2. evading tax;

3. smuggling; or

4. without permission of the customs or without payment of the amount of tax overdue, selling, assigning or using for other purposes in China donated goods or materials the import duties on which are reduced or exempted.

Article 31 Where a staff member of the donee unit abuses his power, neglects his duty or engages in malpractice for personal gain and thus causes heavy losses to the property
donated, he shall be dealt with in accordance with relevant regulations by the unit he belongs to. If a crime is constituted, he shall be investigated for criminal responsibility in accordance with law.

Chapter VI Supplementary Provisions

Article 32 This Law shall go into effect as of September 1, 1999.