



PUBLIC BENEFIT DONATION LAW

People's Republic of China Premier's Order NO. 19

Passed by the 10th meeting of the Standing Committee of the 9th National People's Congress on 6/28/99, to take effect on 9/1/99.

中华人民共和国公益事业捐赠法

中华人民共和国主席令第十九号公布

1999年6月28日第九届全国人民代表大会常务委员会第十次会议通过 1999年6月28日

第一章 总 则

第一条 为了鼓励捐赠，规范捐赠和受赠行为，保护捐赠人、受赠人和受益人的合法权益，促进公益事业的发展，制定本法。

第二条 自然人、法人或者其他组织自愿无偿向依法成立的公益性社会团体和公益性非营利的事业单位捐赠财产，用于公益事业的，适用本法。

第三条 本法所称公益事业是指非营利的下列事项：

(一) 救助灾害、救济贫困、扶助残疾人等困难的社会群体和个人的活动；

(二) 教育、科学、文化、卫生、体育事业；

(三) 环境保护、社会公共设施建设；

(四) 促进社会发展和进步的其他社会公共和福利事业。

第四条 捐赠应当是自愿和无偿的，禁止强行摊派或者变相摊派，不得以捐赠为名从事营利活动。

第五条 捐赠财产的使用应当尊重捐赠人的意愿，符合公益目的，不得将捐赠财产挪作他用。

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No. 1 GENERAL PRINCIPLES

Article 1: These regulations are drawn up in order to encourage donations; standardize the behaviour of donors and recipients [shou zeng]; protect the legal rights of donors, recipients and beneficiaries; and promote the development of public benefit undertakings.

Article 2: Individuals, legal representatives [faren], and other organisations may voluntarily and freely make contributions to public benefit Social Associations [gongyixing shehui tuanti] and public benefit non-profit Public Institutions [gongyixing feiyingli de shiye danwei] to be applied according to these regulations for use in public benefit undertakings.

Article 3: The following non-profit activities shall be deemed public benefit undertakings to which the regulations apply:

I. Disaster relief, poverty alleviation, and assistance to the handicapped, as well as activities for social groups and individuals in straightened circumstances.

II. Education, scientific, cultural, public health, and athletic undertakings.

III. Environmental protection and construction of public facilities.

IV. Other public benefit undertakings promoting social development and progress.

Article 4: Donations should be voluntarily and freely given. It is forbidden to forcefully or covertly extract donations, or to use the name of the donor in a for-profit enterprise.

Article 5: Donations should be used in a manner respecting the wishes of the donor, and conforming with the end purpose of public benefit. Donated property may not be diverted to other purposes.

Article 6: Donors should abide by laws and regulations; they should not violate social mores, and should not work against the public interest, or any other people's lawful interests.

Article 7: Donations received by public benefit associations add to the

第六条 捐赠应当遵守法律、法规，不得违背社会公德，不得损害公共利益和其他公民的合法权益。

第七条 公益性社会团体受赠的财产及其增值为社会公共财产，受国家法律保护，任何单位和个人不得侵占、挪用和损毁。

第八条 国家鼓励公益事业的发展，对公益性社会团体和公益性非营利的事业单位给予扶持和优待。

国家鼓励自然人、法人或者其他组织对公益事业进行捐赠。

对公益事业捐赠有突出贡献的自然人、法人或者其他组织，由人民政府或者有关部门予以表彰。对捐赠人进行公开表彰，应当事先征求捐赠人的意见。

第二章 捐赠和受赠

第九条 自然人、法人或者其他组织可以选择符合其捐赠意愿的公益性社会团体和公益性非营利的事业单位进行捐赠。捐赠的财产应当 是其有权处分的合法财产。

第十条 公益性社会团体和公益性非营利的事业单位可以依照本法接受捐赠。本法所称公益性社会团体是指依法成立的，以发展公益事业为宗旨的基金会、慈善组织等社会团体。

本法所称公益性非营利的事业单位是指依法成立的，从事公益事业的不以营利为目的的教育机构、科学研究机构、医疗卫生机构、社会公共文化机构、社会公共体育机构和社会福利机构等。

第十一条 在发生自然灾害时或者境外捐赠人要求县级以上人民政府及其部门作为受赠人时，县级以上人民政府及其部门可以接受捐赠，并依照本法的有关规定对捐赠财产进行管理。

县级以上人民政府及其部门可以将受赠财产转交公益性社会团体或者公益性非营利的事业单位；也可以按照捐赠人的意愿分发或者兴办公益事业，但是不得以本机关为受益对象。

第十二条 捐赠人可以与受赠人就捐赠财产的种类、质量、数量和用途等内容订立

value of society, and therefore receive the protection of the nation's laws from seizure, embezzlement, or damage by any work unit or individual.

Article 8: The state encourages the development of public benefit undertakings, and grants support and preferential treatment to public benefit Social Associations and public benefit non-profit institutional work units.

The country encourages individuals, legal representatives, and other organisations to donate to public benefit undertakings.

The government has granted commendations to individuals, legal representatives, or other organisations that have made notable contributions to public benefit undertakings. Before undertaking public commendation of donors, the donor's opinion must first be solicited.

No. 2 DONORS AND RECIPIENTS

Article 9: Individuals, legal representatives, or other organisations may choose to donate to any public benefit Social Association or public benefit non-profit institutional work unit that is conducting activities. Donations should be the lawful property of the donor.

Article 10: Public benefit Social Associations and public benefit non-profit institutional work units can receive donations according to these regulations. Regulations of so-called public benefit Social Associations are established with the principle aim of developing charities and other Social Associations.

Regulations of so-called public benefit non-profit institutional work units apply to organisations engaged in working towards public benefit non-profit purposes including education organisations, scientific research organisations, medical and public health organisations, social welfare organisations and so on.

Article 11: At the occurrence of a natural disaster or other circumstances in which a donor asks government departments above the county level [xian ji yi shang renmin zhengfu jiqi bumen] to receive donations, the government department above the county level can receive donations, and furthermore according to the related regulations, can undertake the management of donated property.

Government departments above the county level can pass received donations on to public benefit Social Associations or public benefit non-profit work units; they can also, in accordance with the donor's wishes, distribute funds to set up public benefit undertakings, but they may not name their own organisation as the beneficiary.

Article 12: Donors may specify the quality, amount, and use of a donations by means of contracts with recipients. The donor has the right to decide the type, use, and amount of the donation.

Donors should fulfill the donation agreement, and according to the period of time and fashion arranged in the contract transfer the donated property to the recipient.

Article 13: Donors making contributions to public benefit undertaking construction projects should reach an agreement with the recipients arranging the construction project's funding, construction, management and use.

捐赠协议。捐赠人有权决定捐赠的数量、用途和方式。

捐赠人应当依法履行捐赠协议，按照捐赠协议约定的期限和方式将捐赠财产转移给受赠人。

第十三条 捐赠人捐赠财产兴建公益事业工程项目，应当与受赠人订立捐赠协议，对工程项目的资金、建设、管理和使用作出约定。

捐赠的公益事业工程项目由受赠单位按照国家有关规定办理项目审批手续，并组织施工或者由受赠人和捐赠人共同组织施工。工程质量应当符合国家质量标准。捐赠的公益事业工程项目竣工后，受赠单位应当将工程建设、建设资金的使用和工程质量验收情况向捐赠人通报。

第十四条 捐赠人对于捐赠的公益事业工程项目可以留名纪念；捐赠人单独捐赠的工程项目或者主要由捐赠人出资兴建的工程项目，可以由捐赠人提出工程项目的名称，报县级以上人民政府批准。

第十五条 境外捐赠人捐赠的财产，由受赠人按照国家有关规定办理入境手续；捐赠实行许可证管理的物品，由受赠人按照国家有关规定办理许可证申领手续，海关凭许可证验放、监管。

华侨向境内捐赠的，县级以上人民政府侨务部门可以协助办理有关入境手续，为捐赠人实施捐赠项目提供帮助。

第三章 捐赠财产的使用和管理

第十六条 受赠人接受捐赠后，应当向捐赠人出具合法、有效的收据，将受赠财产登记造册，妥善保管。

第十七条 公益性社会团体应当将受赠财产用于资助符合其宗旨的活动和事业。对于接受的救助灾害的捐赠财产，应当及时用于救助活动。基金会每年用于资助公益事业的资金数额，不得低于国家规定的比例。

公益性社会团体应当严格遵守国家的有关规定，按照合法、安全、有效的原则，积极实现捐赠财产的保值增值。

公益性非营利的事业单位应当将受赠财产用于发展本单位的公益事业，不得挪作他

Donors to public benefit undertaking construction projects can act on behalf of the recipients, in accordance with relevant regulations, in handling the project's inspection and approval procedures; furthermore organisations can organise construction work, or recipients and donors can jointly organise construction work. Construction quality should meet the nation's quality standards. At the completion of the donated public benefit undertaking construction project, the recipients should inspect the construction, the use of funds, and the construction quality to ensure that the conditions match the donor's specifications.

Article 14: Donors may have their name marked on public works construction projects; principal or sole contributors may select a name for the construction project, with the endorsement of a government department above the county level.

Article 15: When foreign [jingwai] donors make contributions, the recipients should handle entry procedures in accordance with relevant government regulations. Donors require permits for the import management of goods. Recipients should handle permit applications according to the relevant government regulations; customs inspections will be based upon the permits.

For Overseas Chinese wishing to make donations within China, the Office of Overseas Chinese Affairs [renmin zhengfu qiao bumen] may supply assistance in arranging entry procedures.

No. 3 USE AND MANAGEMENT OF DONATED PROPERTY

Article 16: After receiving donations, recipients should take care to present a receipt to the donor and file a record of the donations.

Article 17: Public benefit Social Associations should make use of donations and financial aid in activities and undertakings that conform with the specified purpose. Donations made for disaster relief should promptly be used for relief activities. The proportion of their income that foundations give yearly in financial aid to public benefit undertakings may not be lower than the proportion specified by the government.

Public benefit Social Associations should rigorously abide by relevant government regulations, in accordance with the principles of law, safety, and efficiency and work vigorously to bring about an increase in the value of the donation.

Public benefit non-profit institutional work units should ensure that donations are used for the development of that work unit's public benefit undertakings, and that funds are not diverted to other uses. Receivers may sell off donated goods that are not stored or transported easily, or that exceed practical needs, and the resulting income in its entirety should be used to achieve the donor's purpose.

Article 18: After reaching an agreement with the donors, the recipients should make use of the donated property according to the provisions of the agreement; they may not on their own authority change the use of the donation. If there is an authentic need to change the use of the donation, the receiver should solicit the donor's

用。对于不易储存、运输和超过实际需要的受赠财产，受赠人可以变卖，所取得的全部收入，应当用于捐赠目的。

第十八条 受赠人与捐赠人订立了捐赠协议的，应当按照协议约定的用途使用捐赠财产，不得擅自改变捐赠财产的用途。如果确需改变用途的，应当征得捐赠人的同意。

第十九条 受赠人应当依照国家有关规定，建立健全财务会计制度和受赠财产的使用制度，加强对受赠财产的管理。

第二十条 受赠人每年度应当向政府有关部门报告受赠财产的使用、管理情况，接受监督。必要时，政府有关部门可以对其财务进行审计。

海关对减免关税的捐赠物品依法实施监督和管理。

县级以上人民政府侨务部门可以参与对华侨向境内捐赠财产使用与管理的监督。

第二十一条 捐赠人有权向受赠人查询捐赠财产的使用、管理情况，并提出意见和建议。对于捐赠人的查询，受赠人应当如实答复。

第二十二条 受赠人应当公开接受捐赠的情况和受赠财产的使用、管理情况，接受社会监督。

第二十三条 公益性社会团体应当厉行节约，降低管理成本，工作人员的工资和办公费用从利息等收入中按照国家规定的标准开支。 第四章 优惠措施

第四章 优惠措施

第二十四条 公司和其他企业依照本法的规定捐赠财产用于公益事业，依照法律、行政法规的规定享受企业所得税方面的优惠。

第二十五条 自然人和个体工商户依照本法的规定捐赠财产用于公益事业，依照法律、行政法规的规定享受个人所得税方面的优惠。

第二十六条 境外向公益性社会团体和公益性非营利的事业单位捐赠的用于公益事业的物资，依照法律、行政法规的规定减征或者免征进口关税和进口环节的增值税。

consent.

Article 19: The recipients should, in accordance with the country's relevant laws, establish adequate procedures for the management of donations [jianquan caiwu kuaiji zhidu] and a system for the regulated use of donations, as well as strengthen their management of donations.

Article 20: Each fiscal year, recipients should report to the relevant government Ministry on the use, management, and supervision of donations. It is essential that at any time relevant government Ministries can conduct an audit of the properties.

Customs officials will supervise and manage reductions and exemptions of import duties on donated goods, in accordance with the law.

The Office of Overseas Chinese Affairs may participate in the management and supervision of projects sponsored by donations from Overseas Chinese.

Article 21: Donors have the right to inquire to receivers about the use and management of donations, and to put forward their opinions and suggestions. The recipients must respond truthfully to the donor's inquiries.

Article 22: The recipients must make public the conditions, use and management of donations and must accept the supervision of society [jieshou shehui jiandu].

Article 23: Public benefit Social Associations should rigorously practice economy and reduce management costs; employees' salaries and office expenses should be derived from interest on donations and other income, and be commensurate with standards specified by the government.

No. 4 PREFERENTIAL MEASURES

Article 24: Corporations and other enterprises that under the stipulations of these regulations make donations to public benefit undertakings, will in the administration of these regulations enjoy business tax benefits.

Article 25: Individuals and private small businesses [gongshanghu] that under the stipulations of these regulations make donations to public benefit undertakings, will in the administration of these regulations enjoy personal tax benefits.

Article 26: Foreigners [jingwai] making donations of goods and materials to public benefit Social Associations and public benefit non-profit institutional work units for use in public benefit undertakings, will in the administration of these regulations will enjoy reduction or elimination of import taxes and import procedural fees.

Article 27: The local people's government should grant support and preferential treatment to donated construction projects.

No. 5 LEGAL RESPONSIBILITIES

Article 28: Recipients who have not solicited the donor's permission, or who have on their own authority changed the nature or use of a donation are to be ordered by a government department above the county level to correct their error, and are given a warning. If they refuse to correct their error or solicit the donor's opinion, the government may turn over the donation to another public benefit Social

第二十七条 对于捐赠的工程项目，当地人民政府应当给予支持和优惠。

第五章 法律责任

第二十八条 受赠人未征得捐赠人的许可，擅自改变捐赠财产的性质、用途的，由县级以上人民政府有关部门责令改正，给予警告。拒不改正的，经征求捐赠人的意见，由县级以上人民政府将捐赠财产交由与其宗旨相同或者相似的公益性社会团体或者公益性非营利的事业单位管理。

第二十九条 挪用、侵占或者贪污捐赠款物的，由县级以上人民政府有关部门责令退还所用、所得款物，并处以罚款；对直接责任人员，由所在单位依照有关规定予以处理；构成犯罪的，依法追究刑事责任。依照前款追回、追缴的捐赠款物，应当用于原捐赠目的和用途。

第三十条 在捐赠活动中，有下列行为之一的，依照法律、法规的有关规定予以处罚；构成犯罪的，依法追究刑事责任：

- (一) 逃汇、骗购外汇的；
- (二) 偷税、逃税的；
- (三) 进行走私活动的；

(四) 未经海关许可并且未补缴应缴税额，擅自将减税、免税进口的捐赠物资在境内销售、转让或者移作他用的。

第三十一条 受赠单位的工作人员，滥用职权，玩忽职守，徇私舞弊，致使捐赠财产造成重大损失的，由所在单位依照有关规定予以处理；构成犯罪的，依法追究刑事责任。

第六章 附 则

第三十二条 本法自 1999 年 9 月 1 日起施行

Source: Ministry of Civil Affairs of the People's Republic of China, www.cszh.mca.gov.cn, <http://cszh.mca.gov.cn/article/zcfg/200804/20080400013545.shtml>, (accessed June 8, 2011)

Association or public benefit non-profit institutional work unit in the same or similar area of work.

Article 29: In the event of embezzlement, seizure, or corruption of any of the donated goods, the relevant government department may order the return of the remaining funds or donated goods to the donor, in addition to imposing a fine. Furthermore, the persons responsible will be dealt with according to the regulations of the work unit. In criminal cases, criminal penalties will be applied in accordance with the law.

Article 30: Among the activities of donors, the behaviours listed below are punishable by law; in criminal cases, criminal penalties will be applied in accordance with the law.

I. Evasion of exchange control

II. Tax evasion

III. Engaging in illicit activities

IV. Not obtaining customs permissions or not paying the proper amount of tax, and then transferring or selling goods for profit.

Article 31: Employees of recipients who abuse their powers, neglect their duties, or fail to act impartially and commit irregularities, resulting in a major loss of donated goods will be dealt with according to the regulations of the work unit. In criminal cases, criminal penalties will be applied in accordance with the law.

No. 6 SUPPLEMENTARY

Article 32: These regulations will take effect on 9/1/99.

Source: "Regulations for Registration and Management of Social Associations," China Development Brief, <http://chinadevelopmentbrief.com>, (accessed June 8, 2011)