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By PwC Deutschland | 16 January 2018

Crowdfunding: treatment of donations

The Federal Ministry of Finance published a circular on 15 January 2018 on crowdfunding and the conditions for its deduction as a charitable donation. The circular defines various types of crowdfunding and makes a distinction between classic crowdfunding, donation-based crowdfunding and debt-based crowdfunding (also referred to as peer-to peer lending or crowdlending).

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Crowdfunding is a form of raising funds from a large number of people (“the crowd”) using the internet. The practice usually involves a project initiator introducing a potential project or product to be developed on an internet portal (known as a crowdfunding platform) in order to raise funds (often a fixed amount). The methods used to raise the funds may be very different in terms of organisation and execution.

Classic crowdfunding

The backers or investors receive some kind of non-financial consideration. This is often a project specimen or prototype created at the end of a project phase (e.g. in the form of some kind of technical asset). As this is a form of advance sale, this type of crowdfunding can also be used as a test of the market potential of a new idea.

Payments made in a classic crowdfunding transaction are not deductible as donations as, inter alia, they lack the gratuitous element. The Ministry of Finance notes that donations are often not deductible because the recipient is not tax privileged (e.g. a charitable organisation) or because the backer receives a consideration for his payment – the question as to whether the payment and the consideration are commensurate is irrelevant here.

Donation-based crowdfunding

This may be understood as the organisation of donations for a particular purpose and with a particular funding target. The crowdfunding platform will only transfer the collected funds to the project initiator once the funding goal has been reached. Neither the donee nor the internet platform receive any consideration. Where the funding goal is not achieved, then in some cases the donees will receive their donations back without any deduction (the principle of “All or Nothing”).

The circular sets out the conditions which must be met in order to issue a formal confirmation of a donation and distinguishes between the crowdfunding platform as a tax privileged organisation in its own right and the crowdfunding platform as a trustee.

Where the recipient of the crowdfunding is a tax privileged corporation or a public corporation, it will generally be entitled to issue a formal confirmation of the donation.

Vis-à-vis crowdfunding platforms acting as trustees, the circular also notes that in such cases the option of providing simplified evidence of a donation - this applies to donations of up to € 200, where the payment slip or the booking confirmation will be considered as sufficient evidence - will not be available.

Debt-based lending (Crowdlending)

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Under this model the backers have a financial interest in the success of the project, so that their investment has an “equity-like” character. In a crowdlending model the backers provide fixed-term loans with fixed interest as an alternative to classic bank financing. Under this model the project initiator is the borrower. Where the investor’s assets are merely redistributed in this manner, a deduction as a donation will not be permissible.

Source:

Federal Ministry of Finance circular of 15 December 2017 (IV C 4 – S 2223/17/10001) published on 15 January 2018.

Keywords

Crowdfunding, donations