

# ***Anonymous Donations***

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Tax Matters/ S.P. Babuta

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WITH AN intention to impose tax on donations suspected to be given out of the unaccounted money Finance Act 2006 introduced a new provision ,(Sec. 115BB) for taxation of such donations received by wholly charitable trusts and institution. In this issue I will explain **the new provision and its implications:**

## **Meaning of Anonymous Donations:**

Anonymous donation means Voluntary Contribution received by a person where it(receiver) does not maintain record of the identity indicating the name and address of the person making such contribution and such other particulars as may be prescribed.

## **Rate of Tax**

The exemption provided under section 11 or 12 shall not be available in respect of anonymous donations.Such Anonymous donations would be taxed at the rate of 30 percent plus surcharge plus education cess. Effective rate in this case would be 33.66%.

## **Institutions effected by these provisions :**

Anonymous donations received by the following entities shall be effected :

1. institutions,funds,trusts , societies or such other entities existing only for charitable purposes
2. institutions,fund, existing solely for educational purposes.
3. hospitals existing for philanthropic purposes

## **Those not effected :**

Anonymous donations received by the following entities shall not be effected:

1. trust or institutions created or established wholly for religious purposes.
2. trust or institution created or established for both religious as well as charitable purposes.

This means that a religious purpose has to be there in order to escape this provision.Is the intention of the law makers to promote religion?

The following would cross any logical mind:

- Definition of Anonymous donation is ambiguous,take for instance what happens if the receiver himself writes some imaginary names and addresses from any source and issue a receipt which is ultimately torn by him, as per the definition of anonymous donations such donation would not be treated as anonymous donation.
- What happens if the donor gives wrong information of his identity,does it still get taxed at the hands of the receiver institution?
- In our country 'Gupt Daan' has been a tradition, so here goes another tradition for A six,because now anonymous donation will be taxable in the hands of the wholly

charitable Institutions.

- One fails to understand where is the loss to the exchequer if unaccounted money finds its way back into the system through good charitable means. Or do we want to get bad money back into the system through casinos, wine, whisky and brothels only? which would mean that Bad money will have to be put to bad use and can not be put to good use.
- The answer does not lie in bringing absurd clauses but lies in being more careful while registering such charitable institutions for grant of exemption. Once registered after careful scrutiny, such charitable institutions should be a permissible passage for the bad money to be put to good use.
- The legislation and numerous decisions by the apex court have established that for being eligible for exemption from income tax; what is important is the application of income rather than the source of income. then where is the need for such absurd provision of taxing donations.
- The provision spares only religious or partly religious institutions which would mean that religion is being promoted. Remember, religion only preaches whereas the genuine charitable institutions are the platform for implementation of the preachings of all the religions.

Someone at the helm believes that religion is a bigger charitable cause than education, eradication of poverty, medical relief or general upliftment; it is here that the necessary amendment are required to be made in the mindset in the interest of human mankind.

It appears to be a bigger debate than this column can contain. Till then I am of the opinion that this absurd provision should be done away with immediately in the interest of a more educated, medically fit, well fed and decent civilization. That would be truly religious.