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FREE GIFTS TRIGGER TAX IN RECIPIENT'S HANDS

Generally, human beings give gifts to appreciate, console or empower each other. However, in the eyes of the taxman such innocent gestures may represent a tax liability in the hands of the recipient. Allow us to unfold, and help you understand what the tax laws say about gifts. In this article, words importing the masculine shall be deemed to include the feminine

Enter gifts

Generally, a gift is anything given willingly to someone without receiving any payment or anticipating any compensation. On the other hand, the tax laws do not use the term 'gift' but refer to tax on gifting of 'property.' Technically, the definition of property is wide and encompasses almost anything that has a monetary value, including but not limited to, shares, money, cars, electrical goods, jewellery, cattle, immovable property, and foreign currency. In tax terms, when a person receives a gift, this is construed as a receipt of property.

Donations tax

Having established that a gift is a property in tax terms, the critical aspect to note is that tax is levied on what is referred to as a 'gratuitous disposal of property.' The word 'gratuitous' means something obtained without charge or payment i.e., for free. The Capital Transfer Tax Act further uses the terms donor and donee to represent a person providing the property i.e., the gift and the recipient of the gift respectively. It is from such definitions that the term Donations Tax arose. This therefore means that a 'gratuitous disposal of property' refers to instances where any person gives another person a gift, in whatever form, for free. As such, that gift is liable to donations tax.

On the other hand, the tax law also provides instances where such tax should not be levied which include gifts exchanged between spouses. As an example, if a husband buys a car or any present for his wife, or vice versa, such transactions do not trigger donations tax. Households, personal goods, and gifts below P25,000 are also exempt from the said tax. The tax is also not levied on inheritance of immovable property by heirs, whether or not there is a will. There is also no donations tax on immovable property which is exempted from transfer duty. In other words, first time homeowners and transfers of an immovable property from a citizen to a company he owns or co-owns with his spouse or vice versa are also exempt from the donations tax. The Capital Transfer Tax Act borrows some of its exemptions from the Transfer Duty Act.

The tax bearer

It is imperative to note that the respective tax is levied on the beneficiary or recipient of the gifts. BURS usually depends on voluntary disclosures from taxpayers as there a little control to foster compliance with this tax. However, the dissemination of information about the tax will help the public voluntarily comply with the tax.

Conclusion

In a nutshell, it is vital for taxpayers to understand that some gifts actually trigger tax, especially high-value gifts like vehicles and immovable property and in some instances jewellery. The fact that tax on donations is not commonly enforced doesn't exonerate individuals from the tax liability, especially on high-valued gifts, save for gifts that as exempted, as alluded to above.

Well, folks, we hope that was insightful. As us the two Yours Truly say goodbye, remember to pay Caesar what belongs to him. If you want to consult, join our free Tax WhatsApp group or to know about our 9 Tax e-books, send a text to +267 7181 5836 or email us on jhore@aupracontax.co.bw. You can read more tax articles on our website, www.aupracontax.co.bw under the 'Tax articles' tab.