

## Information on donations and sponsorship

This guide explains the difference between donations and sponsorship, as well as what this means in practical terms for us at the University of Konstanz.

### Donations

#### 1. Definition and requirements

Donations are contributions (in cash or in kind) a person or company makes voluntarily and free of charge to promote certain donation purposes, without obliging the university to provide anything in return.

Contributions for which a university institution provides something in return are not donations, as they are not provided for free. This also applies if the contributions exceed the value of the return service. Dividing the contribution into a donation portion and a return service portion is not permitted. Instead, the entire contribution must be made without something being given in return.

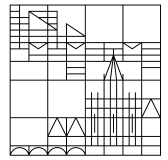
The same applies for reductions in purchase prices. As they are considered as an exchange of services, we cannot issue donations certificates for the discount granted. If, on the other hand, goods are sold at normal prices and the seller also donates a sum of money, a donations certificate can be issued for the corresponding amount. In this case, the price reduction or debt waiver can therefore be interpreted as a donation.

#### *Example:*

*A company delivers goods to the university at the usual sales prices (invoice required) and dispenses with all or part of the entire sales price: we can issue a donations certificate. However, the invoice must clearly show the regular sales price as well as the discount provided as a donation.*

This is a monetary donation, not a donation in kind, as many might assume. This is because it is not the economic good that is donated, but the invoice amount waived by the supplier. The invoice amount is considered to have been paid in full and part of the payment amount is then being donated.

A further requirement for issuing a donations certificate is that the donation promotes non-profit purposes. This applies to donations for the promotion of academic purposes (teaching and research). These funds must be used exclusively and directly for the tax-privileged purposes stated in the certificate. They may therefore only be collected and spent in the area of non-profit purposes and not for (non-tax-privileged) asset management, e.g. sponsorship, or in taxable business operations of a commercial nature (e.g. contract research). A donations



certificate may not be issued if the donation is for general hospitality costs or representation expenses.

In the case of donations in kind, the value as per § 10 para. 3 of the German income tax act "Einkommensteuergesetz" must also be stated in addition to the exact description (type, age, condition, original purchase price) of each individual item.

If donors make donations in kind from the donors' business assets, they have to value the donation, stating the withdrawal value (if applicable, at the lower fair market value), and the institution must be informed accordingly.

In the case of donations in kind from private assets, the donation amount is generally determined by the items' fair market value. The value and exact description of each individual item must be specified by the donor. Suitable documentation (e.g. invoices) must be provided.

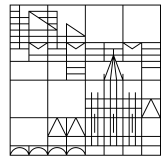
Before accepting donations in kind, possible follow-up costs (e.g. equipment repairs, building adaptations) must be calculated and, if applicable, their financing must be set out in detail.

## **2. Taxation of donations**

Income from donations is not subject to taxes. This also applies if the university merely mentions the donor's contribution / support or expresses its thanks without especially highlighting it. Earmarking the donation for specific purposes does not impact the university's tax status as long as the donation is for a tax-privileged purpose.

## **3. Issue of donations certificates**

Only Finance and Controlling may issue certificates for monetary or in-kind donations. The university does not issue donations certificates for personal donations to a member of the university.



## **Sponsorship**

### **1. Definition and requirements**

In the university context, sponsorship usually means that companies grant money or non-cash benefits (services or surrender of use) to support the university in its academic activities and thus regularly pursue the companies' own interests, too (e.g. image enhancement or increasing the companies' brand recognition).

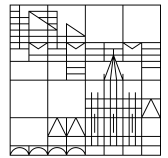
Unlike in the case of donations, the university provides a return service exceeding the mere expression of thanks. The return services do not necessarily have to be proportional to the sponsorship. Depending on the type and scope, sponsorship may constitute an economic activity for both the sponsor and the sponsored party, which is subject to corporation tax, trade tax and VAT. Sponsorship is only permitted if no potential influence on administrative activities is to be expected and if there are no other obstacles in the respective individual cases.

### **2. Differentiation between sponsorship in the area of asset management and commercial sponsorship**

The decisive factor for the tax implications of sponsorship agreements is the content of the agreements and not what the agreement or the benefits contained therein are called (sponsorship, donations, grants, etc.). The distinction between sponsorship in the area of asset management and commercial sponsorship is very difficult to make, e.g. a link to the sponsor's homepage is already classified as commercial sponsorship. Each case is very specific, so please clarify details in advance with Finance and Controlling.

#### **a) Tax-free sponsorship in the area of asset management**

Sponsorships are tax-free if the university merely allows its name to be used for promotional purposes (toleration) without actively participating in the marketing activity. This is the case, for example, if sponsors highlight the benefits they provide to the university for image cultivation or promotional purposes. The same applies if the university refers to the sponsor's support on posters, brochures and the like. This reference may be made using the sponsor's name, emblem or logo, but must not be especially highlighted. If, for example, the sponsor's name appears in the context of official presentations/events (in information material, brochures, programmes, posters or catalogues), the size and conspicuousness of the panels, signs or imprints must be simple, non-promotional and small, and any acknowledgements must be made in an unobtrusive way. The university's involvement in sponsorship activities must therefore be of a secondary and merely passive nature. Income from sponsorships in the area of asset management is not subject to taxes.



*Examples of sponsorship in the area of asset management are:*

- *the mere transfer of naming rights (e.g. letting the sponsor use the university's logo), or transfer of the right to the sponsor to draw public attention to its services by using the name, emblems and logos of the university or to do so in any other way*
- *naming an exhibition space or building after the sponsor*
- *displaying small-format logos of multiple sponsors*

#### b) Taxable sponsorship in the commercial area

If the university actively participates in the advertising activities, such sponsorship is commercial and thus taxable. This is the case, for example, if the use of the sponsor's logo does not merely indicate their support, but the sponsor has additional possibilities to advertise their services or the university actively participates in the advertising activities. Commercial sponsorship constitutes "commercial business activities" on the part of the university and is fully subject to VAT (currently 19 percent) as well as income tax.

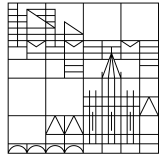
*Examples of commercial sponsorship are:*

- *highlighted references to the sponsor*
- *reference to the sponsor's products*
- *placing a link on the university's website that leads to the sponsor's homepage and promotional material, printing advertisements of the sponsor in brochures and event programmes*
- *naming an event after a sponsor*
- *possibility for the sponsor to set up an exhibition stand*
- *product placement (promotionally effective integration of a sponsor's product in an event)*
- *participation in press conferences and product presentations of the sponsor*
- *sale of the sponsor's products by university staff in the context of an event*

### **3. Conclusion of sponsorship agreements**

The basis for the exchange of services between the university and the sponsor is a contractual agreement. The sponsorship agreement must identify the university as a contractual partner, must be concluded in writing before the support is accepted and must contain information on:

- the specific support provided by the sponsor (what is provided and how, by whom, by when and the scope of support)
- the specific return service provided by the university (what is provided and how, by whom, by when and the scope of support; if applicable, the type and form of presentation of the sponsor in case the name, company and brand are mentioned orally or in writing, as well as in case the logo or other signs are visible on the sponsored object or as part of an event)
- the specific funding of a task or measure (what is being funded, funding objective if applicable)



- the time frame of a service or measure (one-off, permanent, period of time)
- the parties responsible and contact persons of both contracting parties.

Unlike in the case of donations, no donations certificates may be issued for sponsoring activities as per § 10 b EStG (German law on income tax).