



Section 18A & Other Tax Benefits

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HDip (Tax), HDip (VAT)

TPC - Director of Tax

- Qualified Chartered Accountant (17 years experience)
- Post Graduate certificate in Advanced Taxation (Honours)
- Post Graduate certificate in Advanced VAT (Honours)
- Member of SAICA
- VAT specialist & Technical advisor for SAICA – Eastern Region Tax Committee
- VAT & PAYE project advisor for KZN Provincial Treasury
- Registered SARS Tax Practitioner (PR-0008992)
- Tax Trainer & Advisor to Auditor General South Africa (AGSA)
- Currently serves as Tax advisor to more than 50 tax exempt entities
- Extensive Tax and VAT consulting experience across Non-Profit, Corporate, Banking & Insurance, Education & Public Sectors
- +16 years' Income Tax, VAT & PAYE experience
- +3 years' audit experience
- +2 years' Computer & Internal Audit experience

Overview

Points to Cover

1. Quick Recap - PBO
2. Other Taxes & Benefits
3. Section 18A
4. Future of Fundraising
5. Q&A



PBO Recap

SECTION 30(1)

(b) Object & Manner

- Object of the organisation
- Manner in which public benefit activities must be carried on
- No self-interest of any fiduciary or employee

Section 30(1)(b)
Object of the
organisation:
Sole or principal object is
to carry on Public Benefit
Activities (PBAs)

Public Benefit
Activities as per Part 1
of the 9th Schedule

The PBAs approved by the Minister for purposes of section 30 are listed in Part I and categorised as follows:

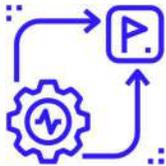
- Welfare and Humanitarian (paragraph 1)
- Health Care (paragraph 2)
- Land and Housing (paragraph 3)
- Education and Development (paragraph 4)
- Religion, Belief or Philosophy (paragraph 5)
- Cultural (paragraph 6)
- Conservation, Environment and Animal Welfare (paragraph 7)
- Research and Consumer Rights (paragraph 8)
- Sport (paragraph 9)
- Providing of Funds, Assets and Other Resources (paragraph 10)
- General (paragraph 11)

PBO Recap



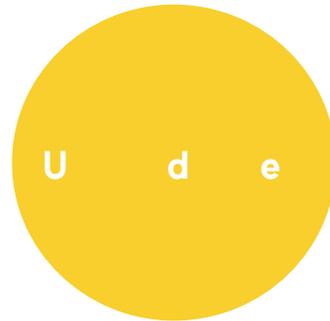
OBJECT

Sole or principal object is to carry on public benefit activities (PBA's)



MANNER

PBA's to be carried on in a non-profit manner & with an altruistic or philanthropic intent



NO SELF-INTEREST

PBO's not intended to directly or indirectly promote the economic self-interest of any person



BENEFIT GENERAL PUBLIC

For the benefit of, or is widely accessible to, the general public at large, including any sector thereof

Other Taxes & Benefits

- Donations Tax
- Transfer Duty
- Dividends Tax
- Capital Gains Tax
- Estate Duty
- PAYE Overview
- Summary

Donations Tax



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- Donations Tax is payable on the gratuitous disposal of property by one person (donor) to another (donee)
- Levied at a rate of 20% on value of donation
- Payable by the donor
- The donor and donee are jointly and severally liable for the tax (if the donor fails to pay the tax timeously)
- R 100,000 donation exempt from tax for natural persons p.a.
- R10 000 per annum (private companies)
- Donations made to or from a PBO are exempt from Donations Tax

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Transfer Duty



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- TD varies from 3% to 13% (payable on a sliding scale based on value of property)
- Acquirer of property is liable for TD
- Applies only when the sale is not subject to VAT

RBP
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- PBO is exempt from TD provided that the whole or **substantially the whole** of the property will be used for the purpose of carrying on one or more approved PBAs
- The transfer of property by a PBO to a separate entity controlled by that PBO may also qualify for TD exemption
- “Substantially the whole” means > 85%
- Exemption is granted per transaction (no blanket exemption exists)
- Declaration to be filed with SARS

Transfer Duty

(Non-Compliance)

- Where less than 85% of the property is used for PBA'S, a deemed acquisition occurs and TD becomes payable
- Date of acquisition = The date the property is used for a purpose other than for the carrying on of the PBA
- Value of acquisition = Original value of the property on the actual date of acquisition
- Rate of TD = Payable at the rate applicable at the deemed date of acquisition (i.e. date when other than PBA usage occurs)
- Payable within 6 months
- Interest and penalties



Transfer Duty (Example)



Scenario

ABC, a PBO, acquired property for R1 750 000 on 1 December 2015 for the purpose of providing a shelter for homeless people.

It submitted a confirmation to SARS of its status as an approved PBO together with a declaration that the whole of the property would be used for the carrying on of PBA's.

However as from 1 September 2021, the property was let for commercial purposes and was therefore no longer used in carrying on its PBA.



Solution

The property qualified for the exemption from the payment of TD because at the time of acquisition ABC:

- submitted confirmation that it is a PBO; and
- confirmed that the whole of the property will be used to carry on a PBA

Subsequent change in use

On 1 September 2021 the whole property was used for the purpose other than the carrying on of a PBA. TD therefore now becomes payable on the value of the property.

The value is based at the date of actual acquisition which is R1 750 000 however payable at the rate applicable on 1 September 2021.

ABC must pay the TD within six months from the date the property is first used for such other purposes, i.e. 1 September 2021, otherwise interest will become payable.

Dividends Tax



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- Dividends Tax is levied at the rate of 20% of the amount of a dividend paid by a SA company
- Dividends Tax may also be payable on a foreign dividend (from a non-SA company)
- Tax is payable by the beneficial holder (person entitled to the benefit)

RBP
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- A PBO that is the beneficial owner of a dividend is exempt from Dividends Tax
- PBO must submit a declaration to the company that declared and paid the dividend that it is exempt from Dividends Tax

Capital Gains Tax



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- Capital gain made on the disposal of an asset by a person is taxable
- CGT inclusion rates in Taxable Income
 - Individuals, special trusts: 40%
 - Other taxpayers (including a PBO): 80%

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A PBO is exempt from both capital gains or capital losses arising on the disposal of three categories of assets:

- Category 1: Non-trading assets (assets used only for PBA's)
- Category 2: Minimal trading assets (assets used "substantially the whole" for PBA's)
- Category 3: Permissible trading assets (assets used for trade which qualifies for exemption under items (aa), (bb), or (cc) of section 10(1)(cN)(ii))

Capital Gains Tax (Example)



Scenario

An approved PBO provides counselling services to prisoners from a residential house which it owns. The PBO uses only a portion of the house for counselling services and lets the remaining portion at a market-related rental.

The area of the house is 210 sq metres.

The area of the property which is let is 30 sq metres and the balance of 180 sq metres is used for PBAs.

The property was sold on 30 June 2021 realising a capital gain.



Solution

Area which was used for PBAs in relation to the whole property is :

$$180 / 210 \times 100 = 85,7\%.$$

The capital gain made on the sale of the property must be disregarded, since substantially the whole of the use of the property (more than 85%,) was directed at carrying on PBAs.

Estate Duty



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Duty levied at a rate of 20% on the net estate of a deceased person

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Any property bequeathed to a PBO is excluded from the value of the estate and therefore not subject to Estate Duty

Employee Taxes

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- Mechanism to collect normal tax
- Must be withheld by employer and paid to the South African Revenue Service (SARS)
- Represents advance payment of normal tax
- Governed by the fourth schedule to the Income Tax Act

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- A compulsory contribution to fund unemployment benefits
- Exemptions from UIF:
- Employees in the National and Provincial spheres of Government and their employers
 - The President, Deputy President, a Minister, Deputy Minister, Member of the National Assembly,
 - Any Member of a Municipal Council, a Traditional Leader, Member of a Provincial House of Traditional Leaders

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- SDL is a levy imposed to encourage learning and development in South Africa and is determined by an employer's salary bill
- The funds are to be used to develop and improve skills of employees

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- The ETI is an incentive aimed at encouraging employers to hire young work seekers
- It was implemented with effect from 1 January 2014

Skills Development Levy



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- SARS administers the collection of this levy (which is paid to the SETA's)
- Levy is based broadly on 1% of the payroll of employer
- Employer must pay over to SARS

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- Registered as an employer and its annual payroll will not exceed R500 000 in the following 12 months;
- Solely carries on PBAs 1, 2(a), 2(b), 2(c), 2(d) and 5; or
- Solely provides funds to a PBO that solely carries on the above PBAs

Tax Benefits Overview

| Tax | Type of Exemption/Benefit |
|-------------------------|--|
| Income Tax | <ul style="list-style-type: none">• Full exemption on Donations, Passive Income and certain Trading Income• Partial exemption on other Trading Income |
| Value-Added Tax | Vat registration is voluntary based on public benefit activities undertaken |
| Capital Gains Tax | Full exemption – based on usage of asset |
| Transfer Duty | Full exemption – based on usage of property |
| Donations Tax | Full exemption – for both Donor and Donee |
| Dividends Tax | Full exemption |
| Skills Development Levy | Full exemption – based on public benefit activity undertaken |
| Employment Tax (PAYE) | No exemptions |
| Unemployment Insurance | No exemptions |
| Security Transfer Tax | Full exemption - if the security is transferred to a PBO |
| Excise & Custom Duty | Full exemption - based on nature of good (e.g. donated goods) |



Section 18A

- Mechanics of Section 18A
- Qualifying for Section 18A
 - Part II 9th Schedule Activities
 - Conduit PBO's
- Donations
 - Cash
 - In kind
 - Valuation
 - Donation of Services
 - Dual Activities - PBOs
- Section 18A Receipts
- Audit Certificates
 - Applicability to PBO's
 - Contents of audit certificate
 - Submission & retention

Mechanics of S18A



Example 1

Donor's Income Statement

| | |
|-----------------------|------------------------------|
| Income | 250,000 |
| Deductions | <u>30,000</u> |
| Taxable Income | 220,000 (before S18A) |
| S18A deduction | <u>20,000</u> |
| Taxable Income | 200,000 |

18A deduction limited to 10% of donors taxable income
Therefore the full R 20,000 allowed as a deduction

Example 2

Donor's Income Statement

| | |
|-----------------------|--------------------------------------|
| Income | 220,000 |
| Deductions | <u>30,000</u> |
| Taxable Income | 190,000 (before S18A) |
| S18A deduction | <u>19,000 (limited to 10% of TI)</u> |
| Taxable Income | 171,000 |

18A deduction limited to 10% of donors taxable income
Therefore only R 19,000 allowed as a deduction
R1,000 balance can be carried forward to following year

Qualifying S18A Activities

Public Benefit Activities Part 1 of the 9th Schedule

General PBO Activities -
70 Activities

The PBAs approved by the Minister for purposes of section 30 are listed in Part 1 and categorised as follows:

- Welfare and Humanitarian (paragraph 1)
- Health Care (paragraph 2)
- Land and Housing (paragraph 3)
- Education and Development (paragraph 4)
- Religion, Belief or Philosophy (paragraph 5)
- Cultural (paragraph 6)
- Conservation, Environment and Animal Welfare (paragraph 7)
- Research and Consumer Rights (paragraph 8)
- Sport (paragraph 9)
- Providing of Funds, Assets and Other Resources (paragraph 10)
- General (paragraph 11)



Public Benefit Activities Part 2 of the 9th Schedule

Activities Approved under S18A

- Welfare and Humanitarian
- Health care
- Land and Housing
- Education and Development
- Conservation, Environment and Animal Welfare

Section 18 Activities
- 48 Activities

Non-S18A Activities

- Religion, Belief or Philosophy
- Cultural
- Research and Consumer rights
- Sport

Conduit PBOs

Conduit PBOs do not necessarily carry on S18A Activities themselves but provide funds or assets to other PBOs

- A conduit PBO is approved under a separate provision in S18A (Section 18A(1)(b))
- The approval of a conduit PBO is specifically limited to the provision of funds or assets and does not include the provision of services or other resources
- The recipient PBO or institution, board or body must use the funds or assets for carrying on any section 18A Activities in South Africa



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Donations - Cash/Money

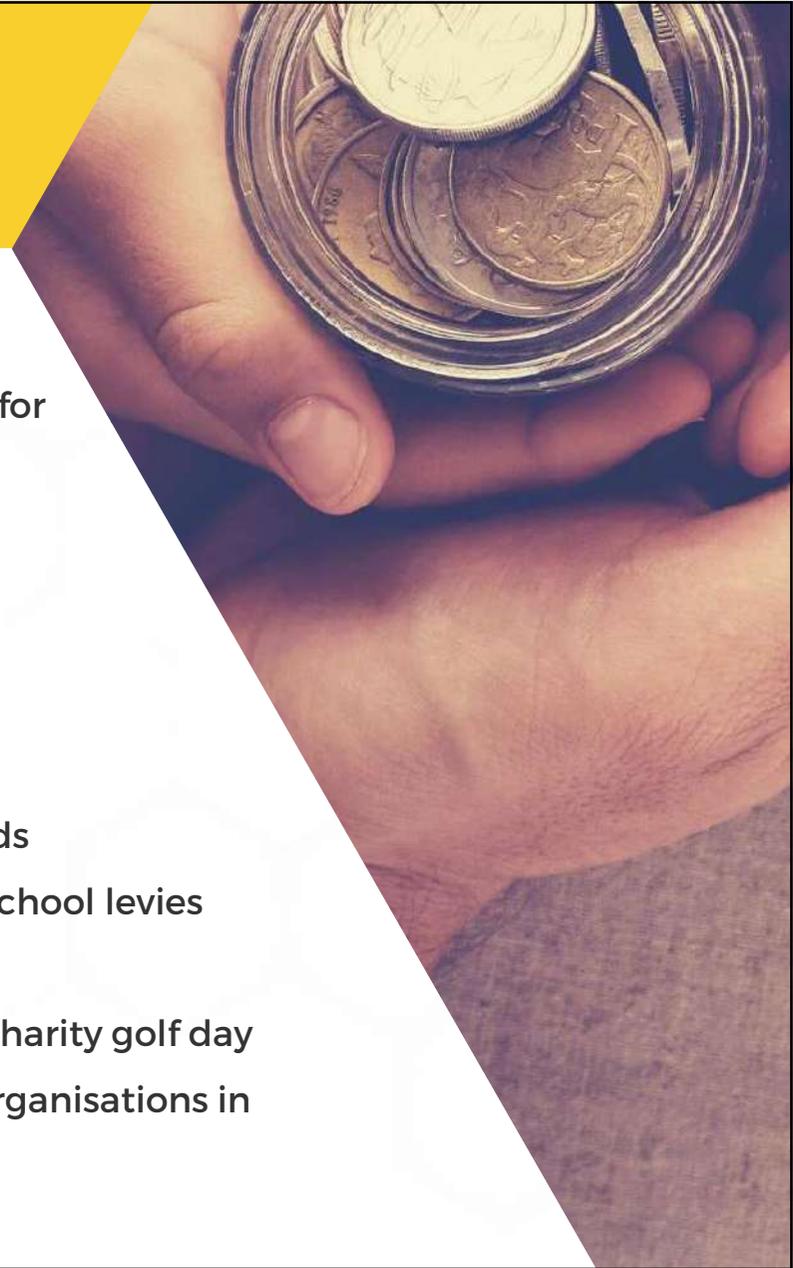


- Gratuitous disposal by the donor out of liberality or generosity
- No quid pro quo, no reciprocal obligations and no personal benefit for the donor
- Must actually be paid or transferred during the year of assessment

Examples of payments not qualifying as donations



- Amounts paid for attending a fundraising dinner or dance
- Memorabilia and other assets donated to be auctioned to raise funds
- Amounts paid for school fees, school entrance fees or compulsory school levies
- Amounts paid for raffle or lottery tickets
- Prizes and sponsorships donated for a fundraising event such as a charity golf day
- Tithes and offerings contributed to churches or other faith-based organisations in support of their religious activities



Donations - In Kind

- A donation of property in kind is made in a form other than cash
- In kind donation must be used by the S18A approved organisation in carrying on any S18A activities in South Africa

Examples of in kind donations



- A financial instrument (e.g. shares in a listed company)
- Trading stock (e.g. computers, food, furniture, medical supplies, motor cars)
- Assets (e.g. cash registers, computers, crockery, delivery vehicles, furniture, garden equipment, kitchen utensils and office equipment)
- Personal assets (e.g. computers, furniture, sport equipment and vehicles)
- Immovable Property (e.g. buildings etc.)



Donations In Kind - Valuation



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- Lower of fair market value on the date of the donation or the cost



VTADIOG
UMPCL

- Cost of the trading stock (as per section 22(8)(C) of the ITA)



AUUEVU
WJED IO VTADE

- Lower of the fair market value on the date of donation; or
- Cost of such property (less any allowance) deducted from the income of that taxpayer for that asset



RETUP OAM
AUUEVU

- Lower of the fair market value on the date of the donation; or
- Cost to the taxpayer of such asset less depreciation using the 20% reducing balance method



INNPXABME
RTPRETVa

- Where market value is greater than cost - specific formula to be used
- Cost of property plus portion of capital gain

Donations - Services

- A donation of services includes provision of time, skill or effort
- Donation of services will not qualify as a S18A deduction

Examples of services donated

- Services rendered by professional persons such as an auditors, accountants, artists, electrician, lawyers, medical doctors or plumbers who render a service free of charge or a discounted service
- The provision of rental space free of charge (the making available of space is provision of services)
- Free delivery services by courier companies



Valuation of free services proves very onerous and difficult and would have been subject to abuse



Donations - Dual Activities

Dual Activities PBOs - Ring-fencing Requirements

- PBO's who carry on dual activities i.e. both Part I (non-S18A approved) and Part II PBA's (S18A approved)
Examples : Religious organisations with welfare activities
- Approval to issue S18A receipts for donations received is solely for Part II PBAs
- Donations for which S18A receipts is issued must be subject to usage solely on a Part II PBA in South Africa
- Controlling of donations to ensure usage is restricted to Part II PBAs only (ring-fencing between Part I and Part II donations)
- Record-keeping must clearly identify the donations received for Part II PBAs and the use to which those donations were applied

Section 18A Receipts

A section 18A receipt may be issued only for a donation that is solely and exclusively used for Part II PBAs in South Africa

- Reference number issued to the organisation
- Date the donation is received
- Name and address of the organisation issuing the S18A
- Name and address of the donor
- Amount of the donation if in cash
- Nature of the donation and the value of the donation if not in cash
- Certification to the effect that the receipts will be used exclusively for the objects of the PBO in carrying on the relevant PBAs in Part II

| | |
|---|---|
|  | ABC PRIMARY SCHOOL Oxford Street, Pretoria, 0001 – Telephone (00) 000 0000 Exemption Reference Number: 930000000 |
| DONATION RECEIPT: Issued under section 18A of the Income Tax Act 58 of 1962. The donation received below will be used exclusively for the objects of ABC Primary School in carrying out public benefit activities approved under section 18A. | 0001 |
| RECEIPT NO. | 0001 |
| NAME OF DONOR | |
| ADDRESS OF DONOR | _____ _____ _____ |
| AMOUNT OF DONATION | R _____ |
| NATURE OF DONATION | CASH: Amount: R _____ OTHER: <ul style="list-style-type: none">• Description: _____• Details of how the value was determined: _____ _____• Value: R _____ |
| DATE OF DONATION | _____ |
| I confirm that the receipt is issued for the purposes of section 18A of the Income Tax Act, 1962, and that the donation has been or will be used exclusively for the object of ABC Primary School. | |
| HEADMASTER / SECRETARY / BURSAR | DATE |

SARS does not make S18A receipts available to S18A approved organisations. S8A approved organisations must create their own receipts ensuring that all the above details appear on the receipt.

Audit Certificates

- In practice, approved PBOs were randomly issuing S18A certificates to donors without regard to whether the donated amount was spent on S18A activities
- Control measures were introduced for PBOs that issue S18A certificates to donors
- PBOs carrying on both S18A and non-S18A PBAs are thus required to obtain an audit certificate
- Confirmation that all donations for which S18A receipts were issued were used solely in carrying on S18A activities in SA
- An audit certificate is not defined in the ITA

“a physical document, for example, a form, declaration or letter, that provides an opinion on the use of donations for which an approved organisation or department issued section 18A receipts” [SARS Interpretation Note 112](#)



Audit Certificate - Content

The ITA prescribes that the audit certificate must express an opinion confirming that all donations for which S18A receipts were issued were used solely for S18A PBAs

The audit certificate should, at a minimum, contain the following detail:

- Name and address of the approved organisation or department.
- Reference number issued to the approved organisation by SARS for purposes of S18A
- Taxpayer reference number of the approved organisation
- Year of assessment to which the audit certificate applies.
- Full name, signature and designation of the person responsible for issuing the audit certificate
- Details of the section 18A receipts issued by the approved organisation
Example: number of S18A receipts issued and total rand value of the donations for which S18A receipts were issued
- Date on which the audit certificate is issued

Audit Certificates - Content (Example)



Scenario

Caring Care Centre, a PBO, carries on religious activities, which fall within PBA 5(a) in Part I.

The Centre has also acquired a home, appointed staff and purchased equipment for purposes of caring for persons afflicted with HIV/AIDS contemplated in PBA 2(d) in Part II. (i.e. S18A activities).

The Centre has been granted approval by SARS to issue S18A receipts for all bona fide donations received by to the centre, which it will use for carrying on PBA 2(d) in Part II.

Note:

The Centre will only be able to issue S18A receipts for donations received for its activities falling within PBA 2(d) in Part II. (i.e. S18A activities).

S18A receipts may therefore not be issued for donations received in support of the Centre's religious activities.



Solution

Donations are received by the Centre for PBAs in Part I and PBAs in Part II (i.e. S18A and non-S18A activities).

The Centre must therefore obtain and retain an audit certificate confirming that all donations received or accrued during the year of assessment for which it issued S18A receipts were used solely in carrying on S18A activities.

Audit Certificate - Administration

- A PBO is not required to submit the audit certificate together with its annual income tax return
- SARS will request an approved organisation, if any supporting documentation, including the audit certificate, is required to be submitted
- The audit certificate is generally required to be kept and retained for five years from the date of submission of the income tax return for the year of assessment to which it relates
- A person who wilfully and without cause fails or neglects to retain records as required is guilty of an offence and on conviction is subject to a fine or imprisonment for a period not exceeding two years

Future of Fundraising



Showcase NPO to 1000s of donors



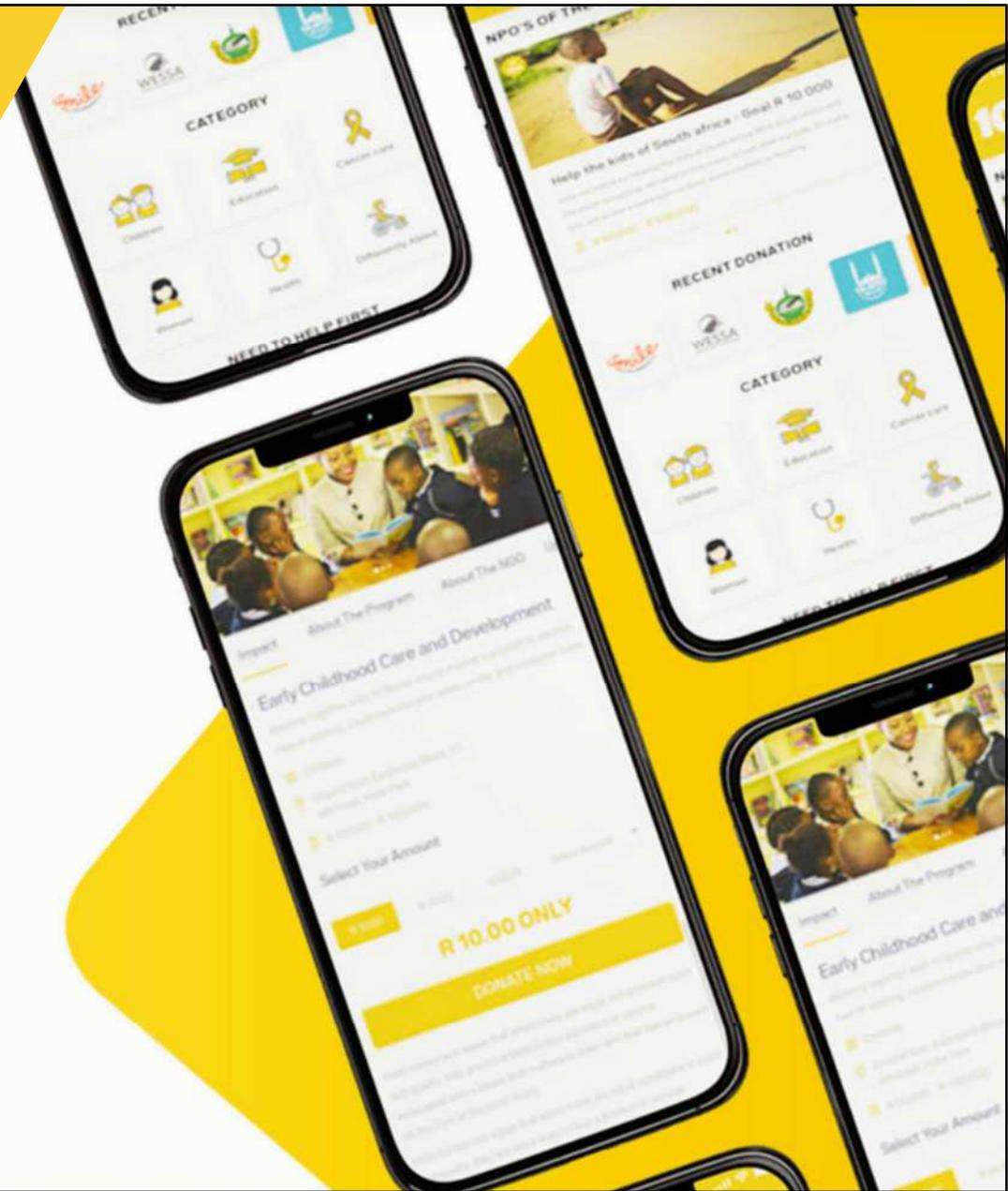
Increase NPO donor base and donations



Mobile + Web based App to facilitate donations



Fully automated S18A receipts for in App/Web donations





SUNITHA SINGH

GM: FINANCE & ADMIN

"TPC has enhanced our ability to increase our activities through tax savings"



JUDI GIBSON

EX GM

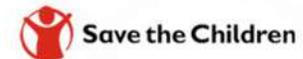
"The League will remain eternally grateful to TPC for their interest shown and the assistance so willingly provided, to assist us in the most meaningful way"



KINGSLEY KIPURY

EX COO

"TPC came highly recommended and they did not disappoint"



A Few NPOs We Serve

Tailored NPO Solutions

Specialised offerings designed for your NPO

01

VAT Reviews

Retrospective success based VAT & Tax Recovery Reviews

02

CA Connect*

A transparent fixed fee outsourced accounting, compliance, tax & payroll solution

03

Statutory/Fund/S18A Audits

Specialised value for money audit services, including USAID Audits

04

Free NPO Needs Analysis

No obligation, no cost analysis of NPO compliance & tax risks

About TPC



ORP
URECIAMUVU



VEC OICAM
EZRETVIUE



RTP XEO VTACL
TECP TD



VTWUVED ORP
ADXIUP TU

TURNING POINT
CHARTERED ACCOUNTANTS (SA)

Q & A



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