

Donation – Sponsorship: Classification and Consequences

DONATION

Selfless charitable support with no services in return, for the sake of a particular cause.

- A specific purpose can be named (e.g. specification that the donation can only be used to support a particular event)
- Any kind of service in return or actual commercial connection to a service to be rendered by the University as recipient of the donation, is not permitted
- If there is a contract, this can be seen as an indicator for a detrimental agreement
- **permitted:** Naming of the sponsor, acknowledgements, reference (also by using logos) to the donation on posters, event announcements, etc. - **BUT: only on a voluntary basis** (the University has no obligation to do so, contractual agreements are not permitted) **and without special featuring.**
- **not permitted:** Links, reference to certain products/services provided by the donor, advertisements, making a difference between the individual donors according to the amount of donation, other featuring
- **Classed as non-commercial:**
 - **no VAT** (as there is no service in return from the University which would be subject to tax)
 - **no deduction of input tax**
 - **no tax on earnings**
 - no invoice, a donation receipt is issued

A sponsor acts in his own commercial interest: the main interest lies in the advertising effect s/he will gain from the sponsorship. Depending on the type of agreement, there is active and passive sponsorship - the tax implications are significantly different!

Passive Sponsorship

- The grey area between a donation and active sponsorship should be handled with care!
The University is able to act in a similar way to a donation - the main difference between a donation and passive sponsorship is that with passive sponsorship the funder has a right to the University performing these activities, whilst they are only voluntary if it is a donation.
- **No active involvement in advertising activities of the sponsor**
 - **permitted:** Acknowledgement of financial support (also by using logos) on posters, event announcements etc., **but without special featuring/being listed according to amount of sponsorship**
 - **permitted:** The sponsor only makes reference to his/her financial support in a similar kind of way
 - Typical case: permanent provision of advertising spaces, but only if the University's services are completed with one legal act (signing of the contract) - not if further services have to be provided, such as the mounting/replacement of posters
 - **not permitted:** The sponsor is given the permanent right to publicise the sponsorship as part of their own advertising
 - **not permitted:** Display/distribution of flyers/sponsor's promotional goods at the sponsored events, permission to put up a stand or provision of advertising space for the sponsor as part of an event etc., link, reference to specific products/services provided by the sponsor, advertisements.
 - If the sponsor would like inspection rights/reports, this can be acceptable if it only affects the internal relationship and has no external impact (i.e. it does not increase the advertising effect as the actual service in return)
- **Not a commercial activity, instead asset management**
 - **no VAT**
 - **no deduction of input tax**
 - **no tax on earnings**
 - no donation receipt, instead request for payment/invoice without VAT

SPONSORSHIP

Active Sponsorship

- **Exchange of services: Advertising as a service in return**
- The University renders advertising services for the sponsor or contributes to his/her advertising activities
 - for example: Links, distribution/display of flyers and promotional goods, mounting of posters and other advertising materials from the sponsor, advertisements, exhibition of the sponsor's products, provision of advertising space for putting up stands - for example at sponsored events, special featuring of the sponsor
- **Tax consequences:** dependent on the kind of sponsored event

ACADEMIC EVENT WITH PARTICIPATION FEE

- Academic events that have a participation fee are assigned to the *BgA Wissenschaftliche Veranstaltungen* (publicly-owned commercial enterprise for academic events), in which case the sponsorship has the following consequences:
 - **19 % VAT on sponsorship income**
 - **Deduction of input tax** for operating costs related to the sponsored event
 - **Tax on earnings** (Corporate and Commercial Tax and *Solidaritätszuschlag* (solidarity surcharge)): **approx. 30 % of the profit**, the profit is calculated by deducting the operating costs that are **directly related to the sponsored event**

OTHER ACTIVE SPONSORSHIP

- Active sponsorship is always a commercial activity, even if the sponsored event is taking place as part of the University's normal function as a public entity (*Hoheitsbereich*)
- **19 % VAT**
- **Deduction of input tax** for expenses: generally possible
HOWEVER: only for expenses which can be classified as sponsorship of commercial business activities - i.e. only the expenses which can be clearly distinguished and connected directly to the advertising activities that are being put into place by the University as a service in return for the sponsorship; **NOT for other expenses related to holding the sponsored event**
- **Tax on earnings: approx. 30 % of the profit**
 - The profit is calculated by deducting the expenses which can be clearly distinguished and linked directly to sponsorship as part of commercial business activities
 - **Only the expenses which can be distinguished clearly and linked directly to advertising activities can be deducted - NOT expenses for holding the sponsored event that fall within the University's normal function as a public entity**
 - **This means that nearly all revenue from sponsorship is subject to tax on earnings of 30 %!**
- **Exemption limits:** VAT and tax on earnings only accrue if the University's income from sponsorship exceeds the **BgA limit** (limit for commercial activities) of **€ 45,000** - which is currently not the case.