|  |  |  |
| --- | --- | --- |
| 发文机关Promulgator | ：: | 全国人民代表大会常务委员会The Standing Committee of the National People's Congress |
| 发布日期Date of Issue | ：: | 1999.06.281999.06.28 |
| 生效日期Effective Date | ：: | 1999.09.011999.09.01 |
| 时效性Effectiveness | ：: | 现行有效Current |
| 文号No.  | ：: | 主席令第十九号Presidential Decree No. 19 |

# 中华人民共和国公益事业捐赠法

# Law of the People's Republic of China on Donations for Public Welfare Undertakings

中华人民共和国公益事业捐赠法

Law of the People's Republic of China on Donations for Public Welfare Undertakings

主席令第十九号

Presidential Decree No. 19

《中华人民共和国公益事业捐赠法》已由中华人民共和国第九届全国人民代表大会常务委员会第十次会议于1999年6月28日通过，现予公布，自1999年9月1日起施行。

The Law of the People's Republic of China on Donations for Public Welfare, which was adopted at the 10th session of the Standing Committee of the 9th National People's Congress on June 28, 1999, is released hereby and shall take effect as of September 1, 1999.

中华人民共和国主席 江泽民

President of the PRC: Jiang Zemin

一九九九年六月二十八日

28 June 1999

中华人民共和国公益事业捐赠法

Law of the People's Republic of China on Donations for Public Welfare Undertakings

（１９９９年６月２８日第九届全国人民代表大会常务委员会第十次会议通过）

(Adopted at the 10th Meeting of the Standing Committee of the Ninth National People's Congress on June 28, 1999)

目 录

Contents

　　第一章 总 则

Chapter 1 General Provisions

　　第二章 捐赠和受赠

Chapter 2 Donation and Acceptance of Donation

　　第三章 捐赠财产的使用和管理

Chapter III Use and Management of Donated Property

　　第四章 优惠措施

Chapter 4 Preferential Measures

　　第五章 法律责任

Chapter 5 Legal Liabilities

　　第六章 附 则

Chapter 6 Supplementary Provisions

第一章 总 则

Chapter 1 General Provisions

第一条   为了鼓励捐赠，规范捐赠和受赠行为，保护捐赠人、受赠人和受益人的合法权益，促进公益事业的发展，制定本法。

Article 1 This Law is enacted for the purpose of encouraging donating, regulating the making and accepting of a donation, protecting the lawful rights and interests of the donor, donee and beneficiary and promoting the development of public welfare undertakings.

第二条   自然人、法人或者其他组织自愿无偿向依法成立的公益性社会团体和公益性非营利的事业单位捐赠财产，用于公益事业的，适用本法。

Article 2 This Law shall be applicable where any natural person, legal person or organization, for the purpose of public welfare, voluntarily donates property gratis to any legally formed community public welfare organization or nonprofit public welfare institution.

第三条   本法所称公益事业是指非营利的下列事项：

Article 3 For purposes of this Law, the term "public welfare" includes the following nonprofit activities:

（一）救助灾害、救济贫困、扶助残疾人等困难的社会群体和个人的活动；

1. activities by social groups or individuals in disaster relief or poverty relief, or in giving assistance to the disabled;

（二）教育、科学、文化、卫生、体育事业；

2. educational, scientific, cultural, public health and sports services;

（三）环境保护、社会公共设施建设；

(III) environmental protection and public facilities construction; and

（四）促进社会发展和进步的其他社会公共和福利事业。

(IV) other public and welfare undertakings promoting social development and progress.

第四条   捐赠应当是自愿和无偿的，禁止强行滩派或者变相摊派，不得以捐赠为名从事营利活动。

Article 4 Donation shall be made voluntarily and gratis. Any allocation of donations by compulsion or in disguised form shall be prohibited and no profit-making activity may be conducted in the name of donation.

第五条   捐赠财产的使用应当尊重捐赠人的意愿，符合公益目的，不得将捐赠财产挪作他用。

Article 5 The donor's wishes for the use of property donated shall be respected and such property shall be used in conformity with public welfare purposes and may not be used for any other purposes.

第六条   捐赠应当遵守法律、法规，不得违背社会公德，不得损害公共利益和其他公民的合法权益。

Article 6 Donation shall be made in compliance with laws and regulations, not against the code of social conduct, nor to the detriment of public interests and the lawful rights and interests of other citizens.

第七条   公益性社会团体受赠的财产及其增值为社会公共财产，受国家法律保护，任何单位和个人不得侵占、挪用和损毁。

Article 7 The property donated to community public welfare organizations and its added value are public property and shall be protected by State laws. No unit or individual may seize, misappropriate or damage it.

第八条   国家鼓励公益事业的发展，对公益性社会团体和公益性非营利的事业单位给予扶持和优待。

Article 8 The State encourages the development of public welfare undertakings, and it supports and gives preferential treatment to community public welfare organizations and nonprofit public welfare institutions.

国家鼓励自然人、法人或者其他组织对公益事业进行捐赠。

The State encourages natural persons, legal persons or other organizations to make donations to public welfare undertakings.

对公益事业捐赠有突出贡献的自然人、法人或者其他组织，由人民政府或者有关部门予以表彰。对捐赠人进行公开表彰，应当事先征求捐赠人的意见。

Any natural person, legal person or organization that makes prominent contribution to donation for public welfare shall be cited by the people's government or the department concerned. The donor shall be consulted before he is cited in.

第二章 捐赠和受赠

Chapter 2 Donation and Acceptance of Donation

第九条   自然人、法人或者其他组织可以选择符合其捐赠意愿的公益性社会团体和公益性非营利的事业单位进行捐赠。捐赠的财产应当是其有权处分的合法财产。

Article 9 Any natural person, legal person or organization may choose the community public welfare organizations or not-for-profit public welfare institutions which meet their wishes of donation. The property donated shall be the legal property at disposal.

第十条   公益性社会团体和公益性非营利的事业单位可以依照本法接受捐赠。

Article 10 Public welfare associations and not-for-profit public welfare institutions may accept donations in accordance with this Law.

本法所称公益性社会团体是指依法成立的，以发展公益事业为宗旨的基金会、慈善组织等社会团体。

For the purposes of this Law, the term "community public welfare organizations" refers to foundations or charitable organizations and other community organizations which are formed in accordance with law and for the purposes of promoting public welfare services.

本法所称公益性非营利的事业单位是指依法成立的，从事公益事业的不以营利为目的的教育机构、科学研究机构、医疗卫生机构、社会公共文化、社会公共体育机构和社会福利机构等。

The term "nonprofit public welfare institutions" refers to institutions of education, scientific research, medicine and public health, public culture, public sports and public welfare services, etc., which are formed in accordance with law and engaged in public welfare services with no profit-making purposes.

第十一条   在发生自然灾害时或者境外捐赠人要求县级以上人民政府及其部门作为受赠人时，县级以上人民政府及其部门可以接受捐赠，并依照本法的有关规定对捐赠财产进行管理。

Article 11 When natural disaster occurs or a donor from abroad requests that the people's government at or above the county level or one of its departments be the donee, the said government or the department may accept the donation, and it shall control the property donated in accordance with the relevant provisions in this Law.

县级以上人民政府及其部门可以将受赠财产转交公益性社会团体或者公益性非营利的事业单位；也可以按照捐赠人的意愿分发或者兴办公益事业，但是不得以本机关为受益对象。

The people's government at or above the county level or its department may transmit the donated property to a community public welfare organization or a nonprofit public welfare institution; or it may also distribute the property or use it to set up public welfare establishments according to the donor's wishes; however, it may not be the beneficiary itself.

第十二条   捐赠人可以与受赠人就捐赠财产的种类、质量、数量和用途等内容订立捐赠协议。捐赠人有权决定捐赠的数量、用途和方式。

Article 12 The donor may conclude a donation agreement with the donee on matters of the type, quality, quantity and purpose of use of the property to be donated. The donor shall have the right to decide the quantity, purpose of use and form of donation.

捐赠人应当依法履行捐赠协议，按照捐赠协议约定的期限和方式将捐赠财产转移给受赠人。

The donor shall fulfill the donation agreement in accordance with law, and transfer the property donated to the donee within the time limit and in the form specified in the donation agreement.

第十三条   捐赠人捐赠财产兴建公益事业工程项目，应当与受赠人订立捐赠协议，对工程项目的资金、建设、管理和使用作出约定。

Article 13 Any donor who donates property for building a public welfare project shall conclude a donation agreement with the donee on matters of funding, construction, management and use of the project.

捐赠的公益事业工程项目由受赠单位按照国家有关规定办理项目审批手续，并组织施工或者由受赠人和捐赠人共同组织施工。工程质量应当符合国家质量标淮。

The donee shall, in accordance with relevant State regulations, be responsible for going through the formalities of examination and approval for the donated public welfare project and for making arrangements for construction, or the construction may be arranged jointly by the donee and the donor. The quality of the project shall conform to the standards of the State.

捐赠的公益事业工程项目竣工后，受赠单位应当将工程建设、建设资金的使用和工程质量验收情况向捐赠人通报。

Upon completion of the donated public welfare project, the donee shall inform the donor of the construction, use of the funds and checking and acceptance of the quality of the project.

第十四条   捐赠人对于捐赠的公益事业工程项目可以留名纪念；捐赠人单独捐赠的工程项目或者主要由捐赠人出资兴建的工程项目，可以由捐赠人提出工程项目的名称，报县级以上人民政府批准。

Article 14 The donor may have his name inscribed on the project donated for public welfare. The donor may propose a title for a project which he himself donates or the bulk of the funds for the construction of which is provided by him, and the title shall be submitted to the people's government at or above the county level for approval.

第十五条   境外捐赠人捐赠的财产，由受赠人按照国家有关规定办理入境手续；捐赠实行许可证管理的物品，由受赠人按照国家有关规定办理许可证申领手续，海关凭许可证验放、监管。

Article 15 Where property is donated by a donor from outside the territory, the donee shall be responsible for going through the customs formalities according to relevant State regulations. If what is donated is under the control of the license system, the donee shall be responsible for applying for license in accordance with relevant State regulations, and the Customs shall, on the basis of the license, let it pass after inspection and exercise supervision over it.

华侨向境内捐赠的，县级以上人民政府侨务部门可以协助办理有关入境手续，为捐赠人实施捐赠项目提供帮助。

Where an overseas Chinese makes donation into China, the department in charge of overseas Chinese affairs under the people's government at or above the county level may assist in going through the customs formalities and help the donor put into effect the donated project.

第三章 捐赠财产的使用和管理

Chapter III Use and Management of Donated Property

第十六条   受赠人接受捐赠后，应当向捐赠人出具合法、有效的收据，将受赠财产登记造册，妥善保管。

Article 16 When a donee receives a donation, he shall give the donor a lawful and valid receipt, keep a register of the donation and take good care of it.

第十七条   公益性社会团体应当将受赠财产用于资助符合其宗旨的活动和事业。对于接受的救助灾害的捐赠财产，应当及时用于救助活动。基金会每年用于资助公益事业的资金数额，不得低于国家规定的比例。

Article 17 Public welfare associations shall use the donated property to fund activities or undertakings that conform to their aims. They shall, without delay, distribute the property donated for disaster relief. The amount of funds allocated annually by foundations for public welfare shall be no less than the proportion fixed by the State.

公益性社会团体应当严格遵守国家的有关规定，按照合法、安全、有效的原则，积极实现捐赠财产的保值增值。

All community public welfare organization shall strictly observe relevant regulations of the State and, in adherence to the principles of lawfulness, safety and effectiveness, maintain and add value to the property donated in an active way.

公益性非营利的事业单位应当将受赠财产用于发展本单位的公益事业，不得挪作他用。

Non-profit public welfare institutions shall use the property donated to them to promote the public welfare services of their own units and may not use it for any other purpose.

对于不易储存、运输和超过实际需要的受赠财产，受赠人可以变卖，所取得的全部收入，应当用于捐赠目的。

Where the property donated is not preservable or transportable or exceeds the actual need, the donee may sell it, and all the income therefrom shall be used for purposes as designed by donation.

第十八条   受赠人与捐赠人订立了捐赠协议的，应当按照协议约定的用途使用捐赠财产，不得擅自改变捐赠财产的用途。如果确需改变用途的，应当征得捐赠人的同意。

Article 18 Where the donee has concluded a donation agreement with the donor, he shall use the donated property according to the purpose of use prescribed in the agreement and may not alter the said purpose of use without authorization. If it is necessary to change such purpose, the donor's consent shall be obtained.

第十九条   受赠人应当依照国家有关规定，建立健全财务会计制度和受赠财产的使用制度，加强对受赠财产的管理。

Article 19 The donee shall, in accordance with relevant State regulations, set up a sound financial and accounting system and the system for the use of the property donated in order to keep the donated property under strict control.

第二十条   受赠人每年度应当向政府有关部门报告受赠财产的使用、管理情况，接受监督。必要时，政府有关部门可以对其财务进行审计。

Article 20 The donee shall be subjected to supervision by the relevant government department, submitting to it a report annually on the use and control of the donated property. When necessary, the relevant governmental departments may audit their finance.

海关对减免关税的捐赠物品依法实施监督和管理。

The Customs shall exercise supervision and control over the donated goods or materials that are granted duty reduction or exemption.

县级以上人民政府侨务部门可以参与对华侨向境内捐赠财产使用与管理的监督。

The department in charge of overseas Chinese affairs under the people's government at or above the county level may take part in supervising the use and control of the property donated to China by overseas Chinese.

第二十一条   捐赠人有权向受赠人查询捐赠财产的使用、管理情况，并提出意见和建议。对于捐赠人的查询，受赠人应当如实答复。

Article 21 The donor shall have the right to inquire of the donee about the use and control of the donated property and put forward his comments and suggestions. The donee shall give truthful answers to the donor's inquiries.

第二十二条   受赠人应当公开接受捐赠的情况和受赠财产的使用、管理情况，接受社会监督。

Article 22 The donee shall be subjected to public supervision, making public the donations received and the use and control of the donated property.

第二十三条   公益性社会团体应当厉行节约，降低管理成本，工作人员的工资和办公费用从利息等收入中按照国家规定的标准开支。

Article 23 All community public welfare organizations shall practise strict economy to reduce managerial cost and the salaries of the staff members and the overhead expenses shall be covered by interest and other incomes according to the standards set by the State.

第四章 优惠措施

Chapter 4 Preferential Measures

第二十四条   公司和其他企业依照本法的规定捐赠财产用于公益事业，依照法律、行政法规的规定享受企业所得税方面的优惠。

Article 24 Any company or any other enterprise which, in accordance with this Law, donates property for public welfare, shall, in accordance with the provisions of the laws and administrative rules and regulations, enjoy preferential treatment in income tax levied on enterprises.

第二十五条   自然人和个体工商户依照本法的规定捐赠财产用于公益事业，依照法律、行政法规的规定享受个人所得税方面的优惠。

Article 25 Any natural person or any self-employed individual in industry or commerce who, in accordance with this Law, donates property for public welfare shall, in accordance with the provisions of the laws and administrative rules and regulations, enjoy preferential treatment in individual income tax.

第二十六条   境外向公益性社会团体和公益性非营利的事业单位捐赠的用于公益事业的物资，依照法律、行政法规的规定减征或者免征进口关税和进口环节的增值税。

Article 26 Customs duties and value added taxes levied on imported goods and materials which are donated for public welfare to community public welfare organizations and not-for-profit public welfare institutions shall, in accordance with the provisions of the laws and administrative rules and regulations, be reduced or exempted.

第二十七条   对于捐赠的工程项目，当地人民政府应当给予支持和优惠。

Article 27 Local governments shall support and give preferential treatment to donated projects.

第五章 法律责任

Chapter 5 Legal Liabilities

第二十八条   受赠人未征得捐赠人的许可，擅自改变捐赠财产的性质、用途的，由县级以上人民政府有关部门责令改正，给予警告。拒不改正的，经征求捐赠人的意见，由县级以上人民政府将捐赠财产交由与其宗旨相同或者相似的公益性社会团体或者公益性非营利的事业单位管理。

Article 28 Any donee who, without permission of the donor, alternates the nature or purpose of use of the property donated, shall be ordered to put it right and given disciplinary warning by the relevant department under the people's government at or above the county level. Where the making of corrections is refused, upon approval of the donor, the people's government at or above the county level shall hand over for management the property to public welfare associations or not-for-profit public welfare institutions that have identical or similar principles.

第二十九条   挪用、侵占或者贪污捐赠款物的，由县级以上人民政府有关部门责令退还所用、所得款物，并处以罚款；对直接责任人员，由所在单位依照有关规定予以处理；构成犯罪的，依法追究刑事责任。

Article 29 Whoever misappropriates, seizes or embezzles donated money or property shall be ordered to return the said money or property and be fined by the relevant department under the people's government at or above the county level. The person who is directly responsible shall be dealt with in accordance with relevant regulations by the unit he belongs to. If a crime is constituted, the person shall be investigated for criminal responsibility in accordance with law.

依照前款追回、追缴的捐赠款物，应当用于原捐赠目的和用途。

The money or articles returned or recovered according to the provisions of the preceding paragraph shall be used for their original purposes and uses.

第三十条   在捐赠活动中，有下列行为之一的，依照法律、法规的有关规定予以处罚；构成犯罪的，依法追究刑事责任：

Article 30 In donation activities, any of the following acts shall be punished in accordance with the relevant provisions in laws and regulations, and if a crime is constituted, criminal responsibility shall be investigated in accordance with law:

（一）逃汇、骗购外汇的；

1. evading foreign exchange or purchasing foreign exchange by fraud;

（二）偷税、逃税的；

(II) Evading or dodging taxes;

（三）进行走私活动的；

(III) committing smuggling activities;

（四）未经海关许可并且未补缴应缴税额，擅自将减税、免税进口的捐赠物资在境内销售、转让或者移作他用的。

(IV) without permission of the Customs and without having paid the overdue payable taxes, selling, transferring or using for other purposes within the territory of the PRC donated materials the import duties on which are reduced or exempted.

第三十一条   受赠单位的工作人员，滥用职权，玩忽职守，徇私舞弊，致使捐赠财产造成重大损失的，由所在单位依照有关规定予以处理；构成犯罪的，依法追究刑事责任。

Article 31 Where a staff member of the donee unit abuses his power, neglects his duty or engages in malpractice for personal gain and thus causes heavy losses to the property donated, he shall be dealt with in accordance with relevant regulations by the unit he belongs to. If a crime is constituted, he shall be investigated for criminal responsibility in accordance with law.

第六章 附 则

Chapter 6 Supplementary Provisions

第三十二条   本法自1999年9月1日起施行。

Article 32 This Law shall go into effect as of September 1, 1999.