

## DRAFT INTERPRETATION NOTE

DATE:

**ACT : INCOME TAX ACT 58 OF 1962**  
**SECTION : SECTION 1(1) – DEFINITION OF “GROSS INCOME”**  
**SUBJECT : TAXATION OF AMOUNTS RECEIVED BY OR ACCRUED TO MISSIONARIES**

### *Preamble*

In this Note unless the context indicates otherwise –

- “**missionary organisation**” includes a missionary society, agency, association, fellowship, congregation, religious or denominational body, or similar organisation that organises, arranges, or undertakes missionary work;
- “**section**” means a section of the Act;
- “**the Act**” means the Income Tax Act 58 of 1962;
- any other word or expression bears the meaning ascribed to it in the Act.

### **1. Purpose**

This Note provides clarity on the tax treatment of amounts received by or accrued to missionaries who are performing religious or related activities.

### **2. Background**

A missionary is a member of a religious mission.<sup>1</sup> A religious mission comprises a group of people sent by a religious body to perform religious and social work,<sup>2</sup> educational or hospital work,<sup>3</sup> or to spread that religious body’s faith.<sup>4</sup> Often, missionaries operate under the “banner” of a missionary organisation.

Typically, a missionary is not employed by a missionary organisation, and depends on contributions to meet costs related to both the missionary work undertaken and personal expenditure. The contributions are usually made by a community or members of a missionary organisation of which the missionary is a member. Often, these amounts are paid directly by individuals to the missionary organisation, which controls and administers the amounts received for its own benefit and on its own behalf, and then passes on all or part of the amounts to the relevant missionary. In other instances, the contributions can either be made directly to the missionary, or the missionary organisation may simply act as a conduit for the amounts received.

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<sup>1</sup> *Collins English Dictionary*. (1991). (3<sup>rd</sup> ed). Harper Collins: Glasgow.

<sup>2</sup> *Collins English Dictionary*. (1991). (3<sup>rd</sup> ed). Harper Collins: Glasgow.

<sup>3</sup> [www.dictionary.com/browse/missionary?s=ts](http://www.dictionary.com/browse/missionary?s=ts) [Accessed 25 March 2025].

<sup>4</sup> Soans, C., & Stevenson A. (eds) (2006). *Concise Oxford English Dictionary*. (11<sup>th</sup> ed Revised). Oxford University Press: New York.

This Note clarifies the correct income tax treatment of the amounts received by or accrued to missionaries. Any donations tax implications of amounts paid to missionaries, as well as the implications of any tax treaty, are beyond the scope of this Note.

### 3. The law

The relevant provision of the Act is the definition of “gross income” in section 1(1), and is quoted below.

<p><b>“gross income”</b>, in relation to any year or period of assessment, means—</p> <ul style="list-style-type: none"> <li>(i) in the case of any resident, the total amount, in cash or otherwise, received by or accrued to or in favour of such resident; or</li> <li>(ii) in the case of any person other than a resident, the total amount, in cash or otherwise, received by or accrued to or in favour of such person from a source within the Republic,</li> </ul> <p>during such year or period of assessment, excluding receipts or accruals of a capital nature, but including, without in any way limiting the scope of this definition, such amounts (whether of a capital nature or not) so received or accrued as are described hereunder, namely—</p> <p>.....</p> <ul style="list-style-type: none"> <li>(c) any amount, including any voluntary award, received or accrued in respect of services rendered or to be rendered or any amount...received or accrued in respect of any employment or the holding of any office:</li> </ul>
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### 4. Application of the law

Donations made to persons for purely personal reasons are generally not subject to normal tax (income tax), being capital in nature. However, not every amount freely or voluntarily given, is a true donation. The introductory words of the general “gross income” definition exclude receipts or accruals of a capital nature. However, if amounts contemplated in the special inclusions<sup>5</sup> are included in gross income, they are included “whether of a capital nature or not”.<sup>6</sup> Thus, if the amounts satisfy the requirements of one or more of the special inclusions, those amounts are “gross income”, even if they are capital in nature.

Any amount, including any voluntary award, is included in paragraph (c) of “gross income” if it is received or accrued in respect of services rendered or to be rendered by the recipient or in respect of any employment or the holding of any office. These requirements are often misunderstood in the context of missionaries, and are explained below.

Missionaries are most often independent of the missionary organisations that they represent. However, it is not uncommon for them to be employed by those organisations. The principles set out below apply equally to employed missionaries. The exemption in section 10(1)(o)(ii) may have a bearing on the tax liability of South

<sup>5</sup> Paragraphs (a) to (n) of the definition of “gross income”.

<sup>6</sup> The opening words of the definition of “gross income” specifically state “whether of a capital nature or not”.

African resident missionaries employed outside of South Africa. See Interpretation Note 16 “Foreign Employment Income” for more information.

#### 4.1 Amounts “in respect of” services rendered or to be rendered

The phrase “in respect of” in paragraph (c) of the definition of “gross income” connotes a causal relationship between the amount received and the taxpayer’s services or employment.<sup>7</sup>

In *Stevens v Commissioner for South African Revenue Service*,<sup>8</sup> certain key employees had been awarded share options by their employer. They incurred losses on those option transactions because the company board had exercised its discretion to declare a special dividend. The employer decided to voluntarily compensate the employees for the losses sustained through an *ex gratia* payment. Howie P stated the following at paragraph 22 of his judgement regarding the taxpayer’s argument that it was not employment that was the effective cause of the payment, but rather the board’s decision to declare the special dividend:

“The question which requires answering is not: what was the factor or event which prompted the board to decide to make the *ex gratia* payment? ... The question to answer is rather: why was the payment made to those who received it?”

The court held that the amounts were received by the recipients because they were employees who had received a benefit directly linked to their employment, and concluded that the payments were therefore taxable.

This reasoning applies equally to payments made in respect of services rendered. The payer’s motivation for making the payment is not the determining factor. What is important is the reason why the recipient received the payment.

The test is therefore whether there is a causal relationship between the missionary services that a person renders, and the payments received. If the missionary services that the person is rendering are the reason that the payments are being received, that is sufficient to create a causal connection, and such amounts are accordingly included in the missionary’s “gross income” under paragraph (c) of that definition in section 1(1).

In many instances, contributions of amounts are actively solicited from communities and congregations to fund the missionary services that missionaries perform or intend to perform. In some instances, these contributions are sought via international missionary organisations or religious denominations, which advertise and conduct fundraising activities to raise funds for the specific missionary work that the missionary is undertaking or intends to undertake. In other instances, the missionaries themselves actively undertake these fundraising activities. However, there is always a link when seeking such funds to the missionary work that the missionary has committed to perform. This is sufficient to establish the link between the contributions sought for, and the missionary services performed or to be performed.

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<sup>7</sup> *Stevens v Commissioner for South African Revenue Service* 2007 (2) SA 554 (SCA). See also *Stander v Commissioner for Inland Revenue* 1997 (3) SA 617 (C), 59 SATC 212; *De Villiers v Commissioner for Inland Revenue* 1929 AD 227, 4 SATC 86; and *Commissioner for South African Revenue Service v Kotze* 64 SATC 447.

<sup>8</sup> *Stevens v Commissioner for South African Revenue Service* 2007 (2) SA 554 (SCA).

Missionaries generally provide social services to communities in need, or deliver ministry services to those communities, rather than to the person making payments to them. However, it is **not** a requirement that the services be rendered to the person making the payment.<sup>9</sup> It is sufficient if the payment is made **because of** or **in recognition of** the services, even if they are rendered to someone other than the payer.

Amounts received by or accrued to a missionary from the community, church, or missionary organisation are therefore sufficiently closely linked to the missionary services rendered or to be rendered for those amounts to be included in paragraph (c) of the “gross income” definition.

## 4.2 Voluntary award

Paragraph (c) of the definition of “gross income” includes any “voluntary award” received or accrued in respect of services rendered. In *Commissioner for South African Revenue Service v Kotze*,<sup>10</sup> it was stated regarding a voluntary award that –

“services need not be rendered by virtue of any contract, nor need the amount received or accrued be by reason of any contract or obligation: it can be a purely voluntary payment”.

Notwithstanding that the amount paid is voluntary and may be given without an obligation, there is an underlying link to services rendered or to be rendered.

Under the common law, a true donation is not a disposition in respect of services rendered. It must be inspired by disinterested benevolence or pure liberality. A remuneratory donation, on the other hand, is a payment made without any underlying obligation, but in recognition of or recompense for something, including for services rendered or to be rendered.<sup>11</sup> In *Avis v Verseput*,<sup>12</sup> the erstwhile Appellate Division explained the distinction as follows:

“The conclusion to be drawn from these authorities seems to me to be that in Roman-Dutch law remuneratory donations are exempted from the restrictive rules governing donations in general by reason of the fact that they are not inspired solely by a disinterested benevolence but are, as a rule, made in recognition of, or in recompense for, benefits or services received, and therefore are akin to an exchange or discharge of a moral obligation. Whether or not a donation is remuneratory, must, of course, depend principally upon the motive inspiring the gift.”<sup>13</sup>

The word “solely” in the above passage means that, to qualify as a true donation, disinterested benevolence or pure liberality must be the *only* motive for making the payment.<sup>14</sup> If a dual motive exists, the gift is not a true donation, even if the dominant purpose was pure liberality.

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<sup>9</sup> *Verrinder Ltd v Commissioner for Inland Revenue* 1949 (2) SA 147 (T), 16 SATC 48.

<sup>10</sup> 64 SATC 447 at 453-454.

<sup>11</sup> Harms, L. T. C. (2025). “Donations” 16 (Third Edition) *Law of South Africa*. (My LexisNexis: online) in paragraph 21, where the learned author also includes the situation that a “donor mistakenly believes he or she is under a duty to make the donation (because the motive will not be pure liberality)”.

<sup>12</sup> *Avis v Verseput* 1943 AD 331 at 353.

<sup>13</sup> See also *Estate Welch v Commissioner for the South Africa Revenue Service* 2005 (4) SA 173 (SCA), 66 SATC 303 at paragraph 22; and *Commissioner for Inland Revenue v Estate Late Hulett* 1990 (2) SA 786 (AD), 52 SATC 109 at 118.

<sup>14</sup> *Commissioner for Inland Revenue v Estate Late Hulett* 1990 (2) SA 786 (AD), 52 SATC 109 at 118.

It is not, however, necessary to distinguish between a remuneratory donation granted or paid in respect of services rendered, and a voluntary award granted or paid in respect of services rendered. Both types of payment will fall under paragraph (c) of gross income, whereas a true donation will not.

For these reasons, it is crucial to determine in every instance whether an amount paid or granted to a missionary is a true donation, or a remuneratory donation or voluntary award in respect of services rendered or to be rendered by the missionary.

Purely personal gifts (in cash or otherwise) made by friends and family members to missionaries without any connection to the missionary services that the missionary renders, are not included in paragraph (c) of gross income. The facts and circumstances of each case must be evaluated to determine whether the reason for the gift is purely personal, or if it is connected to the missionary services rendered or to be rendered.

**Example 1 – Amounts received by a missionary from a missionary organisation**

*Facts:*

ABC, a missionary organisation, solicits contributions from community members in order to enable X to perform missionary work. ABC collects all the contributions and pays them to X at the end of each month.

*Result:*

The amounts received by or accrued to X is solicited for purposes of performing missionary work and is therefore sufficiently closely linked to the missionary services rendered or to be rendered by X. The amount is included in X's gross income under paragraph (c) of that definition.

**Example 2 – Amount received by a missionary from a family member**

*Facts:*

Y performs missionary work. Z, who is Y's parent, gifts R10 000 to Y because Y is unable to meet his monthly financial obligations.

*Result:*

The amount gifted by Z to Y is not causally linked to Y's missionary work. It is more closely linked to Z's common law duty of support to maintain Y, or simply a parent's natural love and affection for a child. Consequently, the amount will not fall to be included in paragraph (c) of gross income, and will not be subject to income tax.

**Example 3 – Amount received by a missionary from a member of the community**

*Facts:*

X, a missionary, receives a contribution of R5 000 from Y, who is a member of the community in which X performs missionary work. The contribution is intended for the maintenance of X so that X can perform her role as a missionary.

**Result:**

The amount received by X is causally linked to the performance of X's work as a missionary. Accordingly, the amount will be included under paragraph (c) of gross income and will be subject to tax.

**Example 4 – Amounts received from family and friends via missionary organisations****Facts:**

A missionary organisation collects contributions from members of its community, including family members and friends of various missionaries who perform services for the missionary organisation. The missionary organisation administers the contributions collected, and distributes amounts to each of its missionaries.

**Result:**

The amounts received by the missionaries from the missionary organisation are causally linked to the performance of their work as missionaries, including amounts contributed by family members and friends. Consequently, the amounts will accordingly fall to be included in paragraph (c) of gross income and will be subject to tax in the hands of each missionary.

**Example 5 – Gift received from a family member****Facts:**

X renders missionary services on behalf of a religious body. X's child gifts X with a text of the religious body as a birthday present to take along when undertaking the missionary work.

**Result:**

The value of the gift is not included in X's gross income. The gift was made on purely personal grounds, and not in connection with the missionary services to be rendered.

Certain payers of gifts may designate that their contributions should be used to acquire capital assets required for the mission. These amounts are paid to enable the missionary to undertake the missionary work and achieve the mission's objectives. Notwithstanding that the missionary acquires a capital asset for use in the missionary work, or even that the missionary might ultimately donate the asset to the community where the missionary work is performed, the award from the payer constitutes amounts received or accrued to the missionary in respect of the missionary work, and will be fully taxable in the missionary's hands. However, if the award is held by the missionary in trust, or as an agent of the community, the amount is not received by or accrued to the missionary and is not taxable in the missionary's hands.

**Example 6 – Amount received by missionary for capital acquisitions***Facts:*

Y renders missionary services on behalf of a missionary organisation. W, a contributor to the missionary organisation, grants Y an award and earmarks that, in addition to supporting Y and Y's family for the duration of the mission, the amount awarded should also be used to acquire a dialysis machine for use in the community clinic.

*Result:*

The total amount of the award from W constitutes paragraph (c) gross income in Y's hands, including the amount earmarked for the purchase of the capital asset.

**Example 7 – Amount received by missionary for capital acquisitions***Facts:*

Y renders missionary services on behalf of a missionary organisation. W, a contributor to the missionary organisation, pays R250 000 to the missionary organisation in order for the mission community clinic to acquire a dialysis machine, and grants an additional R50 000 to Y to support Y and family whilst undertaking their missionary work. The R250 000 grant is paid to Y to acquire the dialysis machine on behalf of the community clinic. Y acquires a machine for R240 000, transfers ownership to the community clinic, and returns the balance of R10 000 to the missionary organisation.

*Result:*

The R250 000 received by Y for the dialysis machine is not received by Y, nor does it accrue to Y, for purposes of gross income, and is not taxable in Y's hands. The R50 000 grant is for missionary services to be rendered by Y and is fully taxable in Y's hands.

**4.3 Source of income and worldwide income**

Income received or accrued in respect of services rendered has its source where those services are rendered.<sup>15</sup> If the missionary services are rendered in South Africa, the source of any income that arises from those services will therefore be from South Africa, even though the contributions may be made in a foreign jurisdiction.

South African tax resident missionaries will therefore be subject to tax in South Africa on their worldwide income, whilst missionaries who are not resident in South Africa will be taxable on the amounts received in respect of their missionary services rendered within South Africa.<sup>16</sup>

<sup>15</sup> *Commissioner for Inland Revenue v Lever Bros and Unilever Ltd* 1946 AD 441, 14 SATC 1; *ITC 837* (1957) 21 SATC 413 (C); *ITC 1088* (1966) 28 SATC 202 (R); and *ITC 1104* (1967) 29 SATC 46 (R).

<sup>16</sup> Definition of "gross income" in section 1(1).

**Example 8 – Amounts received from foreign missionary organisation***Facts:*

Z, who is not tax resident in South Africa, works as a missionary in South Africa for XYZ International (XYZ), a missionary organisation with headquarters in Australia. XYZ paid Z an amount of R50 000, for Z's own benefit, to assist with the distribution of its religious reading material and to support its feeding programme for needy communities. XYZ provides separate funding for its feeding programme, as well as all religious reading material.

*Result:*

The amount received by Z is from a source in South Africa, and as a non-resident, Z is subject to tax on that amount in South Africa.<sup>17</sup>

**4.4. Provisional tax**

The definition of “provisional taxpayer”<sup>18</sup> is wide. Missionaries who fall outside of the employees' tax system and who receive amounts that are taxable in South Africa in terms of the principles set out above<sup>19</sup> are provisional taxpayers and will be required to estimate taxable income and make provisional tax payments.

Missionaries outside of the employees' tax net should carefully consider whether they will be provisional taxpayers, as failure to submit estimates of taxable income and make provisional payments when they are due may result in penalties<sup>20</sup> and interest<sup>21</sup> being imposed.

**5. Conclusion**

Amounts received by or accrued to missionaries for missionary services rendered in South Africa must be included in the missionary's “gross income” and will be subject to normal tax. Employed missionaries may qualify for a tax exemption if missionary services are rendered outside of South Africa. Missionaries outside of the employees' tax system must consider whether they are provisional taxpayers.

<sup>17</sup> Whether any tax treaty has implications for this conclusion have not been considered.

<sup>18</sup> Defined in paragraph 1 of the Fourth Schedule to the Act.

<sup>19</sup> Subject to certain prescribed monetary limits – see Interpretation Note 1 “Provisional Tax Estimates” for more information.

<sup>20</sup> Under paragraphs 20 and 27 of the Fourth Schedule to the Act read with Chapter 15 of the Tax Administration Act 28 of 2011. See Interpretation Note 1 “Provisional Tax Estimates” for more information.

<sup>21</sup> Under sections 89bis(2) and 89quat of the Act. See Interpretation Note 1 “Provisional Tax Estimates” for more information.