

# Advantages and Disadvantages of the Six Methods of Tax Treatment of Corporate Donations: A Theoretical Study of Intellectual Enrichment in the Fields of Taxation and CSR

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## ABSTRACT

**Purpose:** The objective of this paper is to determine the advantages and disadvantages of possible methods of tax treatment for corporate donations. This theoretical study identified six methods of tax treatment of corporate monetary and in-kind donations that can be adopted by legislative bodies and which stem mainly from six logical visions to explain the meaning and connotation of the term corporate donations. Those visions that may be unknown to many specialists in the field of tax legislation - especially in developing countries, and through which tax treatment methods emerge, are: Donations as if they are operating expenses "unconditional tax incentive"; Donations as if they are indirect taxes; Donations as if they are not granted; Donations as if they are loans; Donations as if they are joint cost; Donations as if they are operating expenses "conditional tax incentive".

**Design/Approach/Methodology:** In order to determine the advantages, and disadvantages of these methods, the researcher was obliged to develop three basic criteria that can be used in determining the advantages, and disadvantages of each method. Those criteria are: Legal imbalance; economic impact; the extent to which the tax treatment is consistent with the content of the CSR idea. This study also indicated the importance of harmonizing the tax treatment with the prevailing economic, social, and cultural conditions in society.

**Findings:** All tax treatment methods have disadvantages and advantages, but to varying degrees.

**Originality/Value:** Through this diversity of tax treatment methods - and the advantages and disadvantages associated with these methods, legislative bodies in all countries of the world can evaluate the methods used in tax treatment that they adopt as one of the components of corporate income tax laws in those countries, and also provide an opportunity for those authorities to choose the appropriate tax treatment method that is compatible with the prevailing economic conditions in those countries.

**Keywords:** Corporate Social Responsibility; Corporate Philanthropy; Legislative Bodies; Visions and Perceptions; Tax Treatment Methods; Tax Incentives; Advantages and Disadvantages.

## INTRODUCTION

Almost all countries adopt the same tax treatment for corporate donations - "reducing taxable income by a portion of donations made by donor corporations, as an incentive for those corporations to continue making worthy contributions to the communities in which they operate." This may be a blind imitation. According to the researcher's perception, this treatment may not be compatible with all the economic, social, and cultural conditions prevailing in all contemporary societies. Each country has laws that suit its environment and conditions, which may not be appropriate for other countries, due to the different economic, social, political and cultural conditions prevailing in each country from time to time. Laws for the tax treatment of corporate donations must be compatible with prevailing economic, social, political, and cultural conditions in those countries to ensure the successful implementation of those laws in these societies, especially since the laws for the tax treatment of corporate donations are laws related to binding legislation in voluntary "non-compulsory" matters. In order for corporations to continue making their donations to the communities in which they operate in a more loyal and sincere manner, and to ensure everyone's compliance, these laws must be convincing to all parties concerned with these laws such as corporations, government, shareholders, tax authority administration,

etc. In other words, the promulgation of laws must be in accordance with visions and rational justifications to gain the approval and satisfaction of all concerned parties. Corporations' conviction of the objectivity of these laws and compliance with them depends on the extent to which they are issued in a correct scientific manner. The researcher believes that the issuance of tax treatment laws for corporate donations in most countries is not done in a scientifically correct manner, "just a belief." The evidence for the validity of this belief is the existence of a single tax treatment applied in most countries of the world despite the different circumstances in those countries. It is known that, the tax treatment of corporate donations that may be in harmony with the economic, political, social, and cultural conditions of a country may not be compatible with the conditions of another country. To solve this problem, legislative bodies must adopt the correct scientific method for issuing such laws.

There is a set of necessary requirements that must be observed when passing a law regarding the tax treatment of corporate donations, which may not be known to many legislative bodies. Most of the world's laws adopt the generic meaning to interpret the term "corporate donations" as the basis for issuing tax treatment laws. The general meaning of the interpretation of the term "corporate donations," which everyone agrees on, is that donations are expenditures related to charitable activities that are performed voluntarily by the corporations, aiming to achieve social benefits for certain sects in society or society as a whole. This contribution often forces legislative bodies to grant tax incentives to donor corporations to motivate them to continue to engage in these voluntary activities. Also, what distinguishes most of the laws of the countries of the world is their interest in highlighting the conditions for recognizing these donations, so that they are taken into account when determining the value of tax incentives, and deduction rates. In fact, the general meaning of the interpretation of the term corporate donation hides behind it many interpretations of "visions and perceptions" about the subtle and varied meanings that the term "corporate donation" may contain, which may be unknown to many legislative bodies. By studying a sample of laws in this field, such as the Syrian law, the Libyan law, and the Egyptian law, it became clear that there is no explanation for the meaning of corporate donations except for the general interpretation of considering corporate donations as charitable activities performed voluntarily by the corporations aiming to achieve social benefits for specific sects in society or society as a whole. To motivate companies to continue to engage in these activities, laws in most countries of the world allow a system of incentives and encouragement. The researcher believes that this interpretation or general perception about the meaning of the term corporate donations is a minor interpretation to be a solid base through which tax treatment laws can be issued for those donations in a correct scientific manner, and with which many goals can be achieved. That corporate donations can be seen "interpreting its meaning" from several angles. Each angle will represent a specific vision or perception about the meaning and connotation of the term "corporate donations" for the legislature. Economic, social, and cultural conditions change from time to time, and to keep pace with these changes, laws must be developed to be in constant harmony with these changes. The lack of visions and perceptions in the corridors of legislative bodies about the interpretation of the meaning of the term corporate donations - according to logical justifications, which could emerge from those circumstances, contributed to the adoption of a single general vision about the meaning of the term "corporate donations" and a single tax treatment for those donations that are adopted by most countries of the world, while this vision is not the only vision, and that tax treatment is not the only tax treatment. Not developing other visions and perceptions about the meaning and connotation of the term corporate donation - which must be in harmony with the prevailing economic, social, and cultural conditions in society, contributed to creating a stalemate in the tax treatment laws for corporate donations, and the only change observed in these laws in most countries of the world, it is represented in increasing or decreasing the percentage of tax incentives granted to donor corporations. And with the remarkable change in economic, social, and cultural conditions from time to time, and the possibility of the emergence of other visions and perceptions to keep pace with these changes-in the interpretation of the meaning and connotation of the term corporate donation, that tax treatment used in most countries of the world may not be consistent with what might happen from changes in economic, social and cultural conditions in any country. As a general rule, laws must change with circumstances and variables on the economic, social, political, and cultural level, otherwise these laws will lose their meaning and content.

### **The Most Common Tax Treatment: Donations as if they are Operating Expenses "Conditional Tax Incentive."**

Corporations contribute huge sums of money annually to charitable activities in the United States. These contributions primarily benefit educational, health, and cultural organizations, and are generally tax deductible to the extent they do not exceed ten percent of a corporation's profits (AARFC, 1999; Auten, et al., 1992; Carroll and Joulfaian,2006).

Because these contributions are deductible from taxable income, they are thought to cost the U.S. Treasury about two billion dollars in foregone corporate income tax revenues (U.S. Office of Management and Budget; Carroll and Joulfaian, 2006).

This treatment is used in many countries-with different deduction rates, such as Libya, Egypt, Syria, USA, etc. This treatment allows corporate donations to be deducted from taxable income, provided that the deducted value does not exceed a certain percentage of the taxable income. For example, according to the Libyan law: Law No. (7) Of 2010 on income taxes: Article (39): (F): Donations to non-profit charitable bodies recognized by the state not exceeding two percent (2%) of the net income (The General People's Congress). This law can be criticized as follows: The Libyan legislator did not define a clear vision about the meaning and connotation of the term "corporate donations" from which the tax treatment emerges; The Libyan legislator did not take into account the prevailing economic, social, and cultural conditions in the Libyan state. Libya is a rich country. Libya does not need taxes; This law is not an incentive for corporations to make more donations to their community in which they work; This law does not contribute to promoting the idea of corporate social responsibility within the Libyan society, as a developing society is in dire need of all progressive ideas, etc.

Expected visions on the interpretation of the meaning and connotation of the term corporate donation: There are many specialized visions regarding the interpretation of the meaning and connotation of corporate donations that are in harmony with all possible economic, social, and cultural conditions prevailing in contemporary societies, those visions are: 1) Donations as if they are operating expenses "an unconditional tax incentive"; 2) Donations as if they are indirect taxes; 3) Donations as if they are not granted; 4) Donations as if they are loans; 5) Donations as if they are a joint cost; 6) Donations as if they are operating expenses "a conditional tax incentive."-contributions as if they are a shared responsibility.

### **Description of the Problem**

The general perception in most people's minds - and even many specialists in the field of taxation and tax legislation in developing countries, about the meaning and connotation of the term corporate donations is that "donations are expenditures related to charitable activities that are performed voluntarily by the corporations, aiming to achieve social benefits for certain sects in society or society as a whole." This contribution often forces legislatures to grant tax reliefs "within definite limits" to donor corporations to motivate them to continue to engage in these voluntary activities. The tax treatment that is consistent with this public perception that stipulates the necessity to deduct corporate donations from taxable income "within certain limits" is the most common treatment in many developing countries, including Libya. The tax treatment of corporate donations should stem from a specific vision regarding the interpretation of the meaning and connotation of the term corporate donations, which must be in harmony with the prevailing economic, social, and cultural conditions in society. The lack of accurate and more specialized visions contributed to the adoption of this tax treatment, as a treatment that is common in most developing countries, including Libya, despite its many flaws. This method is not suitable for all the prevailing economic, social, and cultural conditions in Libyan society. As a result of that, this study came to open new horizons that were not previously present in the corridors of legislative bodies in many developing countries, including Libya, by presenting many visions and tax treatments. As well as explaining the advantages and disadvantages of those treatments that stem from logical justifications.

What is meant by the Prevailing Social And Economic Conditions In Society, in this study, are all relevant variables that are affected by corporations' commitment to their philanthropic responsibility "making contributions," such as government's revenues, infrastructure in the state, the corporate competitive advantage, economics of civil society organizations and charities, and prices in the financial markets, etc. In addition to all other factors that may contribute to organizing and directing charitable activity within the community, such as the level of community awareness of the importance of the role of CSR, the role of civil society organizations and charities in society, the level of unethical behavior and social diseases in the community, the nature of the economy and markets in the country, etc.

### **The Importance of Studying**

This study is theoretical, for the purpose of scientific enrichment in the field of corporate income tax legislation. This study will open new horizons for legislative bodies, specialists, and researchers in the field of tax legislation. This study will contribute to enhancing the understanding and awareness of legislative bodies on the issue of tax treatments for

corporate donations, and this may contribute to the development of corporate income tax laws in this area, especially in developing countries such as Libya. In addition, this study may be considered the starting point for many studies and research in this field.

### **Objectives of the Study**

To keep pace with the potential changes that may occur in the economic, social, and cultural conditions in the surrounding environment-and the consequent need for updating of the tax laws in force in the area of treatment of corporate donations, legislative bodies must have visions and perceptions on the interpretation of the meaning and connotation of the term "corporate donations" that are compatible with those prevailing economic and social conditions in society, and from which the tax treatment should emerge. As a result, this study aims to inform legislative bodies-especially in developing countries, including Libya, of all the visions, and perceptions about the interpretation of the meaning and connotation of the term "corporate donations" that are in harmony with the prevailing circumstances. As well as the appropriate tax treatments for those visions, with an indication of the advantages, and disadvantages of these treatments.

### **Study Method**

For the purpose of this study, the researcher tried to develop a set of logical visions to explain the meaning and connotation of the term corporate donations in a more specialized manner - in the language of business, and to determine tax treatments that are compatible with those visions. To determine the advantages and disadvantages of tax treatment methods for corporate donations, this study identified three reasonable criteria that can be used in evaluating tax treatment methods. To a large extent, the idea of this study depended on the researcher's personal judgment, justified by logical arguments.

## **LITERATURE REVIEW**

### **The Corporate Social Responsibility (CSR)**

The idea of CSR is nothing new. The new is the growth that has occurred in the content of its thought over the years. CSR - which means the need to conduct business in a socially responsible manner, evolved from an era of philanthropic initiatives to an era of strategies and policies that meet the needs, and ambitions of the communities in which they operate. CSR was no more than philanthropic initiatives by the employers to help workers and the wretched poor of the earth. Improving working conditions, consumer protection and welfare, environment protection, interacting with community issues and aspirations, compliance with all sustainable development requirements represents the recent salient developments in CSR thought.

The alms provided by the employers to the poor and their employees in the past centuries have had a tremendous impact on the emergence of CSR thought. These initiatives were indirectly indicating the existence of rights for others (other than shareholders or owners, and the government) in corporate profits. Those rights imposed by the concept of social contract theory. Among the common people, there is still confusion between the concepts of philanthropic responsibility and CSR. The philanthropic responsibility is considered one of the components of the CSR. It contributed to the development of its thought. Development does not only include the concept of CSR, but also encompassed the concept of charity - as one of its components, to transform from a mere practice into an effective strategy.

There are many definitions of CSR with similar meanings. In this study, the researcher has developed a definition that includes almost all those meanings. The researcher defines CSR in its general sense as follows: Corporate Social Responsibility (CSR) means exercising economic activities (by corporations) with legal guidance and ethical behavior when achieving their desired goals that ensure the growth and continuity for them. Taking into account compliance with the following requirements: Contributing to the continuation of life and improving its quality, and achieving prosperity on the planet Earth for present and future generations; Not to inflict material and moral damage on others, and serious interaction with them to achieve common interests, and belief that they are an important and irreplaceable part to ensure the process of their continuation and achievement of their objectives; Commitment to everything that makes life organized in the environment in which they work( Saleh,2019).

### **Corporate Philanthropic Responsibilities**

The philanthropic responsibility is the voluntary responsibility of the corporation. It reflects the current expectations of the society towards the organization. These philanthropic and volunteering activities are animated only by the desire of

the enterprise to involve itself in community activities which are not mandatory or requested by law and which generally are not to be expected from an enterprise, in an ethical manner. The public expects that an enterprise should participate in philanthropic actions and thus this category becomes a part of the social agreement between the organization and the community. Such activities can include donations of goods and services, pro bono activities, volunteering activity, the involvement of the enterprise or of its employees in the community or of the stakeholders. Charity includes those corporate actions which answer to the society's expectancies, according to which the enterprises are good corporate citizens. This includes the efficient commitment in activities or programs of promoting the welfare or the human good will (Grigore, 2010; Carroll, 2016). The researcher defines philanthropic responsibility" as a component of CSR as follows: It is a set of the initiatives that includes philanthropic "material and non-material donations" that contribute to improving the quality of life within the communities in which they operate, which is voluntarily provided by donor corporations without any legal coercion, in response to the aspirations of contemporary societies and their urgent desires to develop the role of corporations to be the ideal partner who will bear part of their worries and problems due to the inability of governments - in most countries of the world, to meet all the needs of their contemporary societies and achieve all their aspirations" (Saleh,2020).

### **Population Explosion and Increasing Government Burdens**

In modern times, and in the light of the population explosion in most countries of the world, and the scarcity of economic resources and the growing burden of the government in the face of contemporary challenges, foremost of which are to achieve the economic well-being of their communities, improve the standard of living of their citizens, and enhance the security and integrity of their lands. Governments are no longer able to finance all development projects, strengthen infrastructure, meet contemporary challenges, meet the aspirations of their people at the same time, and with the same economic resources available. It was necessary to have a reliable partner which could contribute to shoulder a part of the burden of those governments. That partner is the private sector" corporations " , by adhering to its social responsibility towards the community in which it operates, as a compensation for the depletion of its economic resources and the damage to its material and moral components by that sector to achieve its economic gains. Therefore, both corporations and governments should contribute to the achieving well-being and improving the quality of life of their communities. No one can achieve this alone (Saleh, 2020).

### **Corporate Philanthropy" Corporate Giving / Corporate Donation**

Charitable corporate donations (subsumed sometimes under the wider concept of Corporate Social Responsibility) have often been seen as a way of giving back to the society within which a corporate entity operates in order to engender goodwill and promote a positive corporate image of the company among the citizenry. Behind this facade of promoting good relations however, there may be an ulterior motive of exploiting the tax advantage such adventure confers on the corporate donor (Odubunmi, 2018).

Philanthropy is a term associated with the American tradition of charitable giving. At first, it was associated with a person- philanthropist, but today the term corporate philanthropy is more developed, meaning business sector's voluntary giving (Mihaljevic and Tokic, 2015). Philanthropy emanates from the Greek word which means love of humanity. Common interpretations today refer to private initiatives for public good (J. W. Gardner) or initiatives directed at the improvement in the quality of life of peoples "the quality of human life" (Robert Bremner). Colloquially, philanthropy is most commonly used interchangeably with charitable giving - WINGS (John et al., 2017). Corporate philanthropy is the act of corporations donating a portion of their profits or economic resources to various non-profit organizations and charities (Madrakhimova, 2013). This definition may be harmonious with the legislation and regulations in some countries that require the payment of donations to nonprofit organizations to prevent fraud and deception. This definition is limited. It excludes direct donations to poor people, completion of some public projects such as building schools, bridges, and hospitals, etc. as well as non-material help for the public good" volunteer work", unless the regulations of the State so require, where the public interest so requires. Here, non-profit organizations will play the role of mediator. Another definition is: The use of discretionary financial and human resources for primarily public benefit, while recognizing that impact might also accrue for the company's shareholders and employees (John et al.,2017).The researcher defines corporate philanthropy (corporate giving for corporate donation) as follows: It is all material donations" money, assets and goods" and non-material "services " , which are provided to nonprofit organizations or the poor and the needy or for the public good to improve the quality of life in the society (Saleh, 2020).

This might result in the achievement benefits and gains for corporations such as tax reliefs and incentives, in addition to enhancing the competitive advantage. There is increasing interest by corporations in their charitable responsibility, especially in developed countries, where many studies have shown that corporate giving has been on the rise in recent years. For example, a study on corporate giving in the US in 2005 has shown that 62 biggest companies in the U.S. gave \$8.4 billion last year, an increase of 14% from 2004. Also, 87% of the companies surveyed indicated that they have an employee volunteer program, with 44% of them offering paid time off to employees who volunteer (Man, 2006; Perry, 2006). The global survey of CSR spending during the period 2011 – 2013 by Dattani et al. (2015) revealed that the top 10 most generous corporations worldwide gave US\$ 17.7 trillion towards CSR spending annually. An estimated 28 percent of this sum (nearly US\$5 trillion) was in the form of grants rather than in-kind donations or volunteering (John et al., 2017). Donations may be a stone for more than a sparrow “more than a goal.” They may hide behind them many undesirable behaviors, and unethical practices, in addition to legitimate purposes. The purpose of the donation depends on the intentions of the donor. In general, donations can be a tool to achieve the following purposes: Embezzlement “collusive embezzlement”; Tax evasion; Political gains; Tax incentives; Competitive advantage; Improving the quality of life; Distracting the attention of the public opinion on a particular issue; To reduce or avoid losses resulting from obsolescence or expiration of inventory (Saleh, 2020).

Income tax is a major source of funds that the government uses to finance its activities and serve the public. Those funds of the taxes are part of the revenues of the state government, without those funds the government cannot manage the state affairs. Corporations must be committed to supply “pay” the value of taxes to the tax administration “tax authority.” That commitment comes from the reality of the legal responsibility of corporations to the community and its institutions. Also, non-compliance with tax laws and tax evasion by corporations mean facing sanctions in accordance with the law of the State’s economic crimes.” Academics have advocated including the paying of taxes in CSR. For example, the American prof. Avi-Yonah adamantly maintains that companies bear a social responsibility that includes loyally paying taxes. He also argues in favor of companies refraining from business transactions whose sole objective is to minimize taxes” (Avi-Yonah, 2014; Svernlöv, 2016). On the contrary, in recent years, there have been calls for the development of tax laws on corporate income in many countries of the world. This calls for the need to change the Laws to conform to the strengthening requirements of the idea of practice of CSR by corporations through the creation of a system of incentives to achieve tax justice among the corporations and contributes to encouraging corporations to adopt the idea of social responsibility. For example, Jordanian Al Rai newspaper published an essay on 18 - 11- 2014 under the title” The private sector calls for the enactment of the draft law to encourage the adoption of the notion of corporate social responsibility.” Also, there were some actual initiatives in many countries aimed at reforming tax systems, for example, tax reform in France in 2003 about incentives for corporate giving \ corporate philanthropy (Lordemus, 2013). The Sudaress website published an article in 2013 under the title “Donations for Taxes”. This article was an invitation to the Sudanese government to develop the tax code to encourage taxpayers to donate as is the case in the United States. This article stressed the need to find a law that allows deducting the contributions of corporations and businessmen from the taxes imposed on them (Sudaress, 2013). In order to encourage taxpayers to contribute to charity and community service. In 2017, the Sultanate of Oman carried out tax reforms “Amendment to the Tax Code” under Royal Decree No. 9/2017. Those reforms included tax treatment of donations. In kind donations are as costs that must be deducted when determining taxable income. Those amendments were as incentives for donors (Ministry of Finance, 2017).

## **SOLVING THE PROBLEM**

Charitable giving is one of the topics of concern to governments in the modern era. Many governments view charitable giving as important source of financing public spending and development. Given the importance of corporate philanthropy in the development of societies, governments of most countries of the world are keen to encourage and motivate companies to continue providing the support to their societies. And in order for corporations to respond to this desire, the laws governing charitable activities “in the field of tax treatment for corporate donations” must be convincing and satisfactory for all concerned parties, especially corporations- in harmony with the conditions prevailing in the surrounding environment, and contribute to reducing the damage that could be caused to any of the parties concerned. To achieve this goal, all legislative bodies must have sufficient knowledge about all the visions and perceptions that explain the meaning and connotation of the term corporate donations in a more specialized way, in the language of business. Those visions that must be derived from and compatible with the prevailing economic and social conditions in the society, and from which tax treatments also stem. In addition to knowing the advantages and disadvantages of

each tax treatment. In a more precise sense, legislative bodies must have full knowledge of the correct scientific method for drafting laws in this field “requirements for issuing a tax treatment law for corporate donations.” By evaluating the advantages and disadvantages of tax treatment methods, as well as the prevailing economic, social and cultural conditions in society, the legislature can choose and adopt a specific tax treatment in a scientifically correct manner.

### **Tax Exemption, Tax Saving and the Real Sacrifice**

Tax exemption means reducing the value of the tax invoice, either by reducing the value of taxable income or by reducing the value of the income tax. There is a difference between tax exemption in the sense of reduction and tax exemption in the sense of restoration. In the first status: Exemption means reducing taxable income by the value of donations “or a part of it.” In the second status: Exemption means the reduction of the value of the tax invoice “income tax” at the value of such donations or part thereof.” Both “reduction and restoration” contribute to the reduction of the value of the tax invoice payable.

### **Tax Saving and the Real Sacrifice**

Tax saving resulting from donations can be defined as follows: It is the amount of the decrease in the value of the income tax paid by the corporation to the fiscal administration on a definite financial period as a result of incurring monetary and in-kind donations during that period. The Real Sacrifice is the difference between the value of monetary and in-kind donations and the value of tax savings. The Real Sacrifice = the monetary and in-kind donations - tax savings. Tax exemptions result in what is known as a *compulsory partnership* between the government and the corporation in financing the donations made to their beneficiaries. The tax saving earned by the donor corporation is the sacrifice that the government makes as an incentive for that corporation, and it represents a decrease in the value of its tax revenues (Saleh,2020).

In the modern era, “tax laws directly affect corporate giving. Any change in the corporate income tax rate will affect the value of donations made by corporations “increase or decrease” (Sargeant and Crissman, 2006).That is why in recent years many countries have reformed their tax laws to include more incentives for corporations to provide more support to the communities in which they operate. Tax reforms included rates of corporate income tax and limits of tax exemptions for donations.

### **Evaluation and Comparison Criteria**

To determine the advantages and disadvantages of tax treatment methods, one must first find a set of logical criteria. These criteria will be used to infer “conclude” the advantages and disadvantages of those methods. The researcher has identified three criteria that can be used in comparison operations for evaluation purposes and for extracting advantages and disadvantages of those methods. Those criteria are: 1) Economic Impact. This criterion refers to the extent to which the tax treatment method of corporate donations contributes to the promotion of economic development and infrastructure development in the country in an effective manner. As well as a statement of the positive or negative impact on government revenues from taxes, the market value of the shares of the donor corporations and shareholders’ equity; 2) Legal Imbalances. This criterion refers to the legal imbalances that can be produced by the tax treatment method of corporate donations such as double taxation, failure to achieve tax justice among corporations and failure to achieve justice in rights among all stakeholders affected by such treatment “government, society, investors, etc.”; 3) The Extent of Closeness to, or Distance from the Content of the Idea of CSR. This criterion refers to the extent of harmony between the tax treatment method of corporate monetary and in-kind donations, and the content of the idea of CSR and its supreme principles. In other words, the contribution of the method of tax treatment in reducing or preventing the phenomenon of tax evasion, the practice of unethical behavior, and opportunistic behavior by corporations. As well as, achieving justice in rights.

The idea of CSR has come into existence to create a greater role for corporations in their communities, and fruitful interaction between those corporations and their communities in which they operate. Those communities, through which such corporations obtain their economic resources, market their products, on the other hand, those corporations are exporting their damages to those communities. That role that transcends the barriers of their traditional role of maximizing profits and gains. This does not mean that corporations will not achieve any economic benefits by adhering to their social responsibility, on the contrary, corporations can achieve economic benefits by adhering to their social

responsibility, but the only way to reach that goal is through gaining the competitive advantage, which can be created by that commitment. Competitive advantage can be achieved through the loyalty and satisfaction of employees, consumers, society, government and investors. That loyalty and satisfaction can be gained through a corporate commitment to their social responsibility. CSR has many meanings that may not be perceived by non-professionals, such as: CSR means not waiting for any economic benefits, except for those benefits that are achieved by competitive advantage; CSR indicates devotion, the sincerity of the intentions, and great loyalty in commitment, not pretending the commitment for misleading propaganda purposes in accordance with the policy of giving with the right hand and taking with the left hand through a hateful opportunistic behavior; CSR does not mean providing benefits to a particular community at the expense of another community; CSR means achieving justice in rights; CSR means keeping away from opportunistic behavior by exploiting legal loopholes. CSR means not to exploit and invest legal gaps to achieve economic gains; CSR means not to deceive public opinion, even if it is legally permissible. Where data and information should be disclosed in accordance with transparency standards. CSR is a thought that embraces all lofty meanings that oppose all unethical behaviors and practices, and tools and paths that contribute to the spread of those behaviors and practices; CSR is not a way to export the failure of management in managing its economic resources to society or a means to reduce economic losses. For example, it is not a tool to reduce economic losses in inventory by donating obsolete inventory “obsolete stock” or inventory whose validity period is nearing completion, to achieve tax savings that contribute to reducing the amount of economic damage resulting from the obsolete inventory and the validity (expiration dates of the product / validity of inventory usage in the coming period).

### ***Content of the Idea of CSR***

The idea of CSR includes many lofty principles, including but not limited to the following: The fight against all forms of corruption, fraudulent practices and unethical behaviors such as tax evasion, deception, adulteration, and fraudulence “pay with your right hand and take with your left hand.” Achieving justice in rights among all stakeholders. CSR means promoting freedoms and rights, supporting human and economic development, and contributing to improving the standard of living, economic well-being and infrastructure development in societies. The corporations’ purpose of the commitment to social responsibility should be to enhance their competitive advantage by gaining the satisfaction and loyalty of society and government, consumers, investors, etc. Corporations take their resources from the communities in which they operate, and often those communities are affected by the damage produced by those corporations. Companies will be obliged to compensate those communities. Donations and loans are part of that compensation. It is not within the content of the idea of CSR to gain economic benefits out of the scope of the competitive advantage. If this problem “defect” occurs, the CSR will lose its meaning and lofty principles.

### **Legislative Bodies’ Perception on the Interpretation of the Meaning Connotation of the Term Corporate Donation and Tax Treatments Methods**

Interpretation of the meaning and connotation of the term corporate donations, which is compatible with the prevailing economic and social conditions in society, cannot exceed the following six scenarios:

#### ***Donations as if they are Operating Expenses “Unconditional Tax Incentive”***

The Two logical justifications for adopting this perception: According to this perception, donations are the complementary value of the invoices paid in exchange for the purchase of goods and services in line with the content of the idea of social contract theory. The corporation provides donations to its society-in which it operates, as compensation to the community for the depletion of its resources and damage to its environment. As a result, corporate donations can be viewed as operating expenses that must be deducted in full from the value of taxable income. The second justification: Although corporate donations are voluntary and not compulsory, they have become necessary - in the modern era, in developed countries, as they contribute to gaining and enhancing the competitive advantage, which is one of the requirements for the survival and continuation of corporations in competitive markets. The competitive advantage contributes to enhancing the economic performance of corporations in those competitive environments. Therefore, corporate donations can be considered as operating expenses that indirectly contribute to generating income for those donor corporations. The tax treatment according to this perception is as follows: Revenue – (operating expenses + donations) = taxable income x income tax rate = income tax.



### **Advantages and Disadvantages of this Method**

The disadvantages of this method: This method contributes to reducing state tax revenues; This method contributes to creating what can be called a mandatory “Compulsory” partnership between the government and the donor corporations; This method contributes to achieving the tax savings. These gains were not created by a competitive advantage. This is distortion of the content of the idea of CSR; This method does not contribute to the achievement of tax justice among corporations “donor and non-donor.” It does not achieve fair economic growth for corporations, especially when there is no role for competitive advantage; this method may also contribute to a reduction in the market value of the shares of the donor corporations. Especially when the amount of the donation is large, and also in the absence of a role for competitive advantage, and the investor who is aware of the important role of CSR in society; This method may be unfair to shareholders in corporations “donor and non-donor”, especially if the donations had a big impact on the distribution values; This method generates tax savings and therefore the value of donations does not represent real sacrifice incurred by corporations; This method is incompatible with the meanings and contents of the CSR idea . One of the most important of which is the realization “achievement” of justice in rights among all stakeholders. This method may be a gateway to pass many unethical practices and behaviors. *As for the advantages-for donor corporations:* Donor corporations can realize economic benefits (tax savings); Enhancing competitive advantage. *For society or government:* This method is as an incentive for corporations to continue their charitable activities in the communities in which they operate.

This treatment can be adopted under the following circumstances: Lack of an influential role for competitive advantage in the market” the competitive advantage arising from the commitment to CSR”; In developing countries to promote the idea of CSR; In poor countries that suffer from problems in financing economic and social development programs in order to motivate companies to provide more support to their societies; In countries whose governments do not rely on taxes as the only source to finance their public expenditures, etc.

This method is inconsistent with the content of the idea of CSR, for the following reasons: According to the researcher’s point of view, the accurate analysis of this method conceals behind it a state of compulsory partnership. CSR is a commitment based on voluntarism in most of its areas. According to this method, donations are voluntarily incurred by corporations while the government is obligated by law to bear” incur” a portion of those donations (tax savings earned by donor corporations). The researcher believes that this method compels the government to contribute to these donations in a mandatory, non-voluntary manner. The tax laws that permit this, they really distort the true meaning of the idea of CSR; The idea of CSR did not appear to exist for economic gain outside the competitive advantage, and it did not come into existence to promote opportunistic behavior and exploit legal loopholes. If this happens, the CSR will lose its true meaning and will deviate from its noble and lofty goals and motives. This method contributes to achieving the tax savings and economic gains-outside the competitive advantage, thus it is incompatible with the content of the CSR idea; CSR is the performance of activities and the achievement of goals in an ethical manner and behavior. The CSR should be above the level of suspicion and uncertainty. CSR as a modern idea is antagonistic to the opportunistic behavior. The CSR is not a means of exporting the administrative failure to other parties, and is not a means of reducing the economic losses of corporations through the exploitation of legal gaps. This method may be a means to achieve that. This method may be exploited by corporations to get rid of obsolete inventory or inventory whose validity period is nearing completion through the donation to government agencies and bodies or charities, not to interact with the issues and aspirations of the community, but to reduce the economic losses for those corporations; CSR is not a means of circumventing and deception. This method, in the absence of a comprehensive disclosure of donations “not to disclose the tax savings and real sacrifice “can contribute to misleading public opinion about those donations. This is contrary to the principle of transparency in the presentation of data and financial information; One of the contents of the CSR idea is to achieve justice in the field of the rights among all stakeholders. Adopting this method is unfair to the government. It contributes to reducing government revenues from taxes. As well as, this method does not contribute to the achievement of tax justice for donor corporations” especially when there is no market competition. “This method also does not achieve tax justice for investors in the donor and non-donor corporations” taxes on dividends. “Investors in donor companies incur two types of taxes, “indirect taxes, represented in donations and taxes on distributions.”; The idea of CSR is to achieve the goals of the organization in an ethical behavior. It fights corruption. It is a tool to make corporations above all suspicions. It is not compatible with all means and factors by which unethical behavior can be practiced by bad management. This method may be an entryway through which many unethical behaviors can be passed on; CSR is an

idea above all suspicions. It did not emerge to exist to be within the circle of suspicion and interpretation of intentions by the public and evaluators. The adoption of this method does not reflect the hidden intent behind the incurring of monetary and in kind donations by corporations; CSR does not mean to cause harm to any of the stakeholders. CSR does not mean support for a party and at the same time harming another party. According to this method, the aggrieved party is the government. This method contributes to the reduction of government revenues from taxes.

### ***Donations as if they are Indirect Taxes***

The idea of this perception stems from the following justification: The government uses money earned from corporate taxes to finance public sector expenditures, implement economic and social development programs, and strengthen infrastructure in order to provide services to its citizens, as well as to finance various development programs. Donations made by corporations also contribute to promoting economic and social development in the communities in which they operate, and solving many social issues of certain communities in those societies. These donations have a positive impact in field of the service of the common good. Therefore, donations can be considered as indirect taxes provided by corporations to their communities without mediation the government in the process of receiving and re-spending. Ignoring these expenditures may create a state of double taxation, which includes two types of taxes are contributions "indirect taxes" and income taxes "direct taxes." Ignoring means paying two kinds of taxes "direct and indirect." The tax treatment according to this perception is as follows: Revenue- operating expenses = taxable income x income tax rate = income tax- donations=the final value of the tax invoice.

### ***Advantages and Disadvantages of this Method***

The Disadvantages of this Method: This method contributes to reducing state tax revenues; This method may contribute to the atrophy and the disappearance of the idea of CSR or loss of the true meaning of the CSR in the field of interaction with the issues and aspirations of society. Donations will be refunded to the donor corporation as if those who incur these donations are the governments, not the donor corporations. As for the advantages, the only potential advantage is to enhance the donor corporation's competitive advantage.

This treatment can be adopted under the following circumstances: In rich countries that have no problems financing economic and social development programs; In countries whose governments do not depend on taxes as the sole source of financing their public expenditures; In countries whose governments want to involve the private sector in the community development programs, including addressing the social and environmental issues that are unrealized and undiscovered by those governments, etc.

### ***Donations as if they are not Granted***

The idea of this perception stems from the following justifications: Donations are expenditures that have nothing to do with the economic activity of corporations. In other words, they do not contribute directly to achieving the profit, and their impact on the corporation's economic performance is unclear; Donations are voluntary activities "charitable acts" that should be completely ignored when determining taxable income. Not to ignore these expenditures will contribute to harming the government by reducing its tax revenues. CSR does not mean giving benefit to a party at the expense of another. CSR means achieving justice among all stakeholders. As is known, donations are often given to non-profit organizations or charities, with the aim of providing assistance to specific communities or to addressing special issues. In this case, donations are not to support the vital expenditures of the government. When donations are made to nonprofit organizations or charities, the claim that these donations should be ignored will be justified. Those charitable acts - in these areas, must be borne by donor corporations-specifically, owners and shareholders, and not the government "by reducing its tax revenue." Equitable rights must be achieved among the donor corporation, the government, and the beneficiaries of such donations. The interest of the donor corporation and the beneficiaries of the donation should not be at the expense of the government "at the expense of government revenue." As a result of these contributions, the corporation may gain the tax savings resulting from those contributions and government will bear the burden of the decline in the volume of its revenue from taxes, so this result will be considered unfair to the government; As well as, Donations may be the entrance to pass many unethical practices and behaviors, especially in the most corrupt societies. Adopting this scenario is to avoid the impact of these unethical behaviors and practices on the government's tax revenues ;Another argument to support this vision, corporate donations can be considered are alms made by shareholders or owners, paid from their ownership rights in the corporation. Donations, according to

this vision are nothing more than a reduction in the value of ownership rights. The deduction of donation values from shareholders 'equity reflects corporations' pure commitment to their CSR. Donations can be likened to withdrawals from invested capital for personal purposes that have no effect on the results of the corporation's activity. The tax treatment according to this perception is as follows: Revenue – operating expenses = taxable income x income tax rate = income tax. (taxable income- (income tax+ donations) =shareholders' equity or distributable income”.

### ***Advantages and Disadvantages of this Method***

The disadvantages of this method: This method does not achieve tax justice among corporations “especially in a non-competitive market situation.” As well as, it is unfair to shareholders. This method may contribute to the emergence of so-called double taxation. Shareholders will incur such donations in addition to tax on distributions; This method does not generate any tax savings for the donor corporations. This may contribute to the reluctance of corporations to continue to make donations. Advantages of this method: According to this method, donations cannot be used as a means of tax evasion. This method prevents the use of donations as a means to pass some unethical practices and opportunistic behaviors by corporations; This method has no effect on government tax revenues. This method does not generate the tax savings, which can contribute to reducing the amount of real sacrifice incurred by corporations; This method reflects the true intentions of corporations regarding contribution to the development of the communities in which they operate. The obligation of corporations to pay donations will reflect the optimum level of corporate dedication “sincere intentions” to fulfill their social responsibility toward their societies. This treatment can be adopted under the following circumstances: In poor countries that have trouble financing their public expenditures; In countries that suffer from the spread of the phenomenon of corruption.

This method is consistent with the content of the idea of CSR, but not ideally, for the following reasons: This method will put corporate donations above the level of suspicions. The sincere intention of corporations to develop their communities and their serious commitment to their social responsibility in the societies in which they operate can be confirmed when this method is adopted by the legislative bodies and applied by the tax authority, and with the continuation of corporations in the donation activities. This situation will reflect the desired ideal position of CSR in the community; This method is consistent with the content of the CSR idea with regard to the achievement of justice in rights. Justice here is in the sense not to harm a party in return for the benefit of another party. Government revenues should not be affected by donations paid by corporations. In light of the terrible population explosion and the increase in the burden of government, this method will contribute to support the government in meeting its obligations towards its society without any financial bottlenecks due to the decrease in revenue from direct taxes as a result of these unexpected donations. As the continuation of corporations to make donations despite the application of this method by the tax authority in the State reflects the level of ideal commitment to the idea of CSR by corporations within the community in which they operate. Here, it should be noted that both society and government are independent parties in the stakeholder group and both represent an area of CSR areas. Based on this it can be said that, the method of tax treatment that favors a party at the expense of another party will be a serious breach of CSR's content that calls for the achievement of justice in the distribution of rights; This method does not achieve justice among corporations, and among investors in corporations (because there are some corporations incur those donations and others do not incur); CSR means transparency and non-circumvention and this method is fully consistent with this matter. The tax treatment of monetary and in kind donations by using this method will reflect the real sacrifices incurred by corporations towards both the society -through donations in the context of interaction with its issues and aspirations “without achieving any economic gains outside the framework of competitive advantage,” and the government through taxes paid without any deductions for those contributions. This method contributes to the promotion of noble and great principles of CSR. This method is not conducive to the practice of unethical behaviors.

### ***Donations as if they are Loans***

Donations can be envisioned as if they are loans “interest-free loans.” The idea of this perception stems from the following justifications: CSR does not mean giving priority to philanthropic responsibility over economic responsibility. Rather, the two responsibilities must be adhered to in a more harmonious manner. The idea of corporate donations as if they are loans is to create real harmony between corporate economic responsibility” protecting the corporation's economic capabilities” and corporate philanthropic responsibility” providing social benefits by moving from a waiver approach to a lending approach. “Government spending is for the purpose of achieving well-being in all areas for citizens- it is

the responsibility of the government; Taxes represent government rights in corporate profits. Any obligations paid by the corporation on behalf of the government must be returned to corporation by reducing the value of taxes due to the government. The non-return of these contributions to donor corporations means covering up the government's failure to manage its affairs, including the search for financial resources other than taxes (corporate donations may contribute to the emergence of a surplus in the state budget. This surplus does not reflect the effectiveness and efficiency of the government in the management of state affairs.). Spending on public sectors and government bodies, addressing social issues and strengthening the infrastructure of the state is the competence of the government, it is not the competence of corporations; If corporations do not make donations, then governments will resort to borrowing. Donations are voluntary, not compulsory. They are mostly to finance what the government is unable to finance or to finance projects and programs that serve the public interest and that are not included in the government's plan at the present time. Of course, those programs and projects, if the government wants to implement them in the current period, it would have to borrow to finance them. Regardless of any other considerations, for this reason, corporate donations can be considered as indirect loans to support the government. The intended meaning of this perception lies in tax treatment and not in the acceptance or non-acceptance of such donations by the government. The tax treatment according to this perception is as follows: Revenue – operating expenses = taxable income x income tax rate = income tax- a part of the donations" annual installment"= the value of the final invoice for the annual income tax.

### ***Advantages and Disadvantages of this Method***

The advantages of this method: This method contributes to reducing the impact of legal imbalances in the field of rights to the lowest possible level, unlike the previous methods; This method contributes to strengthening of economic development and infrastructure in the country in a more effective and clear way "under the assumption that, donations will be made to accomplish those purposes, according to the vision on which this method depends"; This method also contributes to increasing the rate of flow of corporate donations to the public treasury of the state and the growing of the social role of corporations; This method safeguards the content of the idea of CSR and contributes to the achievement of an unparalleled harmony between corporate philanthropic responsibility and corporate economic responsibility (by preserving the economic resources of the corporation and contributing to the development of the society in which it operates, at the same time); This method contributes to the development of the concept of corporate philanthropic responsibility by moving from the traditional role(donation approach/waiver approach ) to the modern role (lending approach). As for the disadvantages, if the texts of this law and its articles are not selected in a professional manner and defined in a smart way and with the influx of large amounts of corporate donations to the State Treasury and the government is committed to returning "pay" installments of those donations to donor corporations. It will be expected that the government will be subjected to financial bottlenecks in future periods due to the decrease in the amount of tax revenues. This problem can be avoided by issuing an executive regulation that includes all the precautionary measures. This treatment can be adopted under the following circumstance: In poor countries that suffer from financial problems to strengthen their infrastructure and who wish not to borrow from outside sources.

### ***Donations as if they are Joint Cost***

One of the visions that the researcher provided in this study is to consider corporate donations as a joint cost. According to the researcher's perception, corporate donations are an investment in the competitive advantage( as an intangible asset)"or for other purposes unknown and unspecified " motivated by humanitarian, religious, or patriotism, etc. ", that result in achieving social benefits for society or one of its sects- at the same time. Donations contribute to achieving two purposes, "competitive advantage and social benefits." The process of separating the costs "donations" to distribute them on the competitive advantage and social benefits achieved is very difficult. When determining tax exemption in exchange for these donations" for these donations", the part that relates to competitive advantage is an investment "intangible asset" that must be excluded, while the part that relates to social benefits can be considered indirect taxes (especially if the donations are in the areas of government spending), " amounts paid to the public interest without mediating the tax authority in the process of receiving and re-spending", or considering it necessary operating expenses according to the concept of the idea of the social contract. The tax treatment according to this perception is as follows: Revenue – operating expenses =taxable income x income tax rate = income tax- a part of the donations "share of social benefits from the joint cost" = the value of the final invoice for the annual income tax. A part of donations as if it is indirect tax . Or revenue – ( operating expenses + a part of the donations" share of social benefits from the joint cost") = taxable income x income tax rate = income tax. A part of donations as if it is operating expense.

### **Advantages and Disadvantages of this Method**

This method has the same advantages and disadvantages as the first and second methods, in addition to the following two disadvantages: There is a difficulty in apportioning the joint cost to determine the share of competitive advantage and the share of social benefits; The share of the social benefit in the joint cost does not represent the true cost that produced that benefit. Also, the share of the competitive advantage in the joint cost does not represent the true cost that enhanced that advantage. This treatment can be adopted under the following circumstance: In societies that realize the importance of the social role of corporations. In societies where corporate social performance influences consumers and investors decisions.

### **Donations as if they are a Shared Responsibility (Donations as if they are Operating Expenses “Conditional Tax Incentive”)**

The advancement of societies and the achievement of economic prosperity for them is a *joint responsibility* between governments and corporations. The two parties must sacrifice to achieve that goal, but within reasonable limits, especially the government, which is an entity whose mission is not to achieve profit and growth. Based on this scenario, corporate donations can be viewed as operating expenses that must be deducted from taxable income within the permissible limits. These limits can be considered the contribution of governments to support development issues in those contemporary societies and enhancing their well-being at all levels. The tax treatment according to this perception is as follows: Revenue – (operating expenses + donations or part thereof) = taxable income x income tax rate = income tax. Conditional exemption “Donations are deducted from taxable income, provided that the value of the donations does not exceed a certain percentage of the taxable income. For example, according to the Libyan law: Law No. (7) Of 2010 on income taxes: Article (39) :( F): Donations to non-profit charitable bodies recognized by the state not exceeding two percent (2%) of the net income.

### **Advantages and Disadvantages of this Method**

The disadvantages of this method are the same as the disadvantages of the method of “donations as if they are operating expenses “unconditional tax incentive”, in addition to the fact that this method is not considered an incentive for donor corporations to make more donations to the communities in which they operate. With regard to advantages, this method protects, as far as possible, the government’s tax revenues from the decrease resulting from the granting of tax incentives. This treatment can be adopted under the following circumstance: In countries whose governments depend to a large extent on taxes to finance their public expenditures.

## **RESULTS**

The results of this theoretical study are summarized in the following facts: Legal imbalances, economic impacts, and the extent of closeness to, or distance from the content of the idea of CSR can be used as logical criteria for evaluating tax treatment methods of corporate donations and determining their advantages and disadvantages ; Under normal circumstances, there must be harmony among the economic and social conditions prevailing in society and the vision of the legislature to explain the meaning and connotation of the term corporate donations, and tax treatment. ; All tax treatment methods have advantages and disadvantages, but to varying levels; The other fact that can be deduced from this study is that the process of issuing a law regarding the tax treatment of corporate donations in a scientifically correct manner depends on four basic stages: 1) Study and evaluation of the prevailing economic and social conditions in society as a preliminary step for choosing a vision on the interpretation of what donations mean to legislative bodies; 2) Choosing and adopting a specific “perception” vision about interpreting the meaning and connotation of the term corporate donations, which must be compatible with the prevailing economic, social and cultural conditions in society and the logical justifications for adopting it. That vision that will represent the interpretation of the legislature for that term “What do donations mean to them”;3) Determining the tax treatment that aligns with that vision. It will be necessary for the tax treatment to be in harmony with the vision and perception of the legislature on the meaning of the term corporate donation; ;4) Determining the defects and advantages associated with that treatment, as well as the implementing regulations and procedures necessary to avoid or mitigate these defects.

## **A RECOMMENDATION**

The tax treatment of corporate donations should not be abandoned just because there are defects in it as long as it is in harmony with the economic and social conditions prevailing in society and the vision of the legislature about

interpreting the meaning and connotation of the term corporate donations and all that must be done is to develop the executive regulations and take Precautionary measures to avoid these defects as much as possible or reduce their severity. Whereas, adopting an alternative treatment that is not in harmony with these prevailing circumstances may cause negative, undesirable consequences.

## **CONCLUSION**

Perhaps what distinguishes this study is the statement of the close relationship and logical harmony among: 1)The economic and social conditions prevailing in society; 2)the vision about the interpretation of the meaning and the connotation of the term corporate donations that must be derived from those circumstances; 3)The tax treatment that should be derived from that vision.

Depending on a set of perceptions, justifications, and logical criteria, this study identified a package of tax treatment methods with an indication of the disadvantages and advantages of each of those methods. Those methods that must be consistent with the prevailing conditions in the surrounding environment and the visions of their interpretation can contribute to opening new horizons for many legislative bodies, especially in developing countries, including Libya, to evaluate and develop the treatments they adopt. Also, the theoretical framework of this study may be the starting point for many studies and research in this field in the future.

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