



TANZANIA REVENUE AUTHORITY

ISO 9001: 2015 CERTIFIED

TAXATION FOR NONPROFIT ORGANISATIONS IN TANZANIA

A guide to Civil Society Organizations



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● **Partners**





Acknowledgement

This is the first ever simplified document analyzing Laws, Policies and procedures governing taxation of Civil Society Organizations (CSOs) in Tanzania. The idea of preparing and publishing this Tool Kit was brought up during Civil Society Organizations' Directors Reflection Meeting in Mwanza in 2019. The idea was well received by the Tanzania Revenue Authority (TRA) and CSOs across the country. Validation of the Tool Kit was done by representatives from CSOs on 01st July 2021 at Mlimani City Conference Centre, Dar es Salaam.

In writing this technical work, TRA benefitted a lot from the intellectual and technical contributions, experiences and observations from a number of CSOs who have been approached for consultation in different ways. The list of CSOs that had been consulted is long but we must take this special opportunity to thank them for their efforts and encouragement in developing this work which was time-consuming and needed patience.

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General Overview

Preamble

Nonprofit organizations are required to pay taxes and file returns as guided under the laws. Previous studies and consultative discussions involving over 200 NGOs Directors, representatives from the Tanzania Revenue Authority (TRA) and the Ministry of Finance and Planning conducted at different occasions in 2019 highlighted various challenges faced by nonprofit organisations in complying with tax laws. This simplified guide intends to enhance knowledge and skills on the legal and administrative aspects to assist nonprofit organizations to become more compliant to the tax laws.

About this Guide

Taxation for nonprofit organisations in Tanzania is a guide on tax issues relevant for nonprofit organizations legally registered and operating in the country under different statutes. This guide:

- explains basic requirements for registering with TRA as a taxpayer
- explains the basic legal and practical details of relevant taxes, levies, duties and concessions applicable

- highlights common misconceptions by non-profit organisations under the different types of taxes, duties and levies
- contains information on how to become a 'Charitable Organisation' and taxation of charitable organisations.

The information in this guide is not exhaustive. It focuses on taxes that CSOs found most challenging to comply with. The guide also directs readers to supplementary information from TRA website, Tax Consultation Bureau (DSM) and Regional Taxpayer Services and Education Officers in different parts of the country.

NB: *This toolkit is not substitute for the respective Laws. The tax laws shall prevail in case of any inadvertent conflict*



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1. Defining a Nonprofit Organisation

The term nonprofit covers different types of Civil Society Organizations (CSOs) including Faith Based/ Religious Organisations, Trusts, Associations, Community Based Organisations, Cooperative Societies, Legal Aid providers, Philanthropic Organisations etc.

An organisation qualifies as nonprofit if:

- It operates for purposes other than deriving profit or gain and it does not allow any distribution or deemed distribution of profit generated out of its business or undertakings; and
- Its profit must be ploughed back and used solely for improving or expansion of the original organization purpose or function.
- Its constitutive documents prohibit profits or assets distribution for the benefit of particular persons.

In Tanzania, nonprofit organisations are registered under different laws the most common ones are:

- The NGOs Act No. 24/2002.
- The Societies Act, [cap. 337 R.E 2002]
- The Trustees Incorporation Act, CAP 318



2. Nonprofit Organisations and Tax Laws

Tax administration in Tanzania is governed by various laws (Refer Annex 1. Nonprofit organisations like any other taxpayers are required to familiarize with these laws especially the most relevant to their operations.

2.1 Obligations of Nonprofit Organisations under Tax Laws

For overall 'obligations' and 'rights' of taxpayers

Read "Taxpayer's Service Charter" accessible

► [at;https://www.tra.go.tz/IMAGES/uploads/Laws/EIGHTHTAXPAYERSCharterRevised.pdf](https://www.tra.go.tz/IMAGES/uploads/Laws/EIGHTHTAXPAYERSCharterRevised.pdf)

2.1.1 Registration as a taxpayer

Nonprofit organizations are required to acquire Taxpayer Identification Number (TIN) immediately after their formation under their respective laws and commencement of business. Refer Sec. 22 (1) of Tax Administration Act, 2015.

Procedure for registration

An organization can obtain TIN by visiting the nearest TRA Office. (Tax Administration Act R. E of 2019 S. 22 & S. 82)

Upon TIN registration the following information is required;

- Certificate of Registration,
- Constitution
- A copy of a valid Identification for 'Office Bearers' or key personnel (Either of National Identity Card, Passport, Driver's license, Voter's Identification Card)
- An introduction letter from Ward Executive Officer (WEO).
- A lease agreement and/or Title Deed/Residence Licence of office premise.

2.1.2 VAT Registration

A nonprofit organization is required to be registered for VAT from the first day of the month if;

- the turnover (from vatable supplies, not grants and donations) is equal to or greater than the registration threshold of 50 Million in the period of six months or 100 Million in the period of twelve months (Refer Sections 28 & 29 of VAT Act Cap 148 RE 2019, and Section 90 of TAA 2015).
- the organisation offers professional/consultancy services (Section. 29 of VAT Act Cap 148 RE 2019) e.g. consultancy, training etc.
- an organization registered for VAT purposes is obliged to file a return under section 66 of the Value Added Tax Act on the 20th day of a month after the end of the tax period to which it relates, whether or not that person has a net amount of value added tax payable for that period. Failure to comply with filling of the return results into penalty under section 78 of the Tax Administration Act, R.E 2019.



2.1.3 Acquire and Usage of Electronic Fiscal Devices (EFDs)

Nonprofit organization that conduct any economic activity and has a turnover of TZS 14 million and above is required to acquire and use an EFD machine. Non-profit organisations are also required to issue and demand a fiscalised receipt for every transaction made. (Refer Sec. 36 and 86 of TAA Act, 2015).

2.1.4 Timely Payment of Taxes

Every Taxpayer has the duty to pay tax promptly as and when they fall due, and failure to comply with such an obligation results to interest, penalty and fine (as provided in section 76,78 and 83 respectively of the Tax Administration Act, R. E 2019). The payment requirement is prescribed under respective tax laws as explained in section 3 of the guide.

2.1.5 Filing of Tax Returns

Any organisation registered as taxpayer must file tax returns within the prescribed time under the respective tax laws (Refer section 3 of this guide). Literally, 'Tax Return' is a document filed with a tax authority that reports income, expenses and other relevant information for different taxes as required by law. Currently, tax returns are required to be filed electronically for convenience purposes. (Refer Sec. 37 to 41 of TAA Act, 2015).

Note: *Nonprofit organisations operate in a very dynamic and unpredictable funding environment. Filing of returns enables them to communicate various changes and keep the Commissioner updated at all times.*

Box 2 ELECTRONIC TAX RETURNS FILING SYSTEM

Taxpayers are required to file tax returns through electronic tax return filing system.

The system was developed in order to simplify tax returns filing process by taxpayers.

- Taxpayer shall register into the system by using their respective TIN, Email, and Address details in the TRA website: <http://www.tra.go.tz> and Click on the E-filing hyperlink.
- ► **Read a detailed Electronic Filing User Guide accessible via tra website**
<https://efiling.tra.go.tz/Help/DownloadUserManual>

Failure to submit returns

- **Section 78 (1) and (2) of TAA prescribes monthly penalty for failure to file tax return.**

2.1.6 Record Keeping

An organization is required to keep all records relating to tax matters for a period of five years from the relevant date or for a further period as prescribed in the tax law“; or until a final decision is made on the documents. Read Section 89(1) of the VAT Act, 2014 R/W Section 35(3) of the TAA 2015.

2.1.7 Notification of Change of Particulars

Organisations are required to notify the Commissioner of any change of particulars of their organization (e.g. office location, contact numbers, amendments to constitutive documents etc.). In case of any uncertainty of which information need to be updated, it is advisable to contact the nearest TRA office.



2.1.8 Full Disclosure of all business activities

Organisations have an obligation to disclose to the Commissioner all matters relating to business activities concerning their organisations.

2.2 Rights of Nonprofit organisations under Tax Laws

TRA will observe and respect among others, the following rights in ensuring that an organization fulfill their obligations.

2.2.1 Privacy and Confidentiality

An organisation has the right to privacy and confidentiality for private and business information supplied to TRA unless the law provides otherwise.

2.2.2 Right to tax incentives and exemptions allowable under the Tax Laws

Like any other taxpayer, non-profit organisations have the right to tax incentives and exemptions allowed under the tax laws. The type of tax relief depends on the nature of activities that a non-profit organisation undertakes as well as adherence to proper applicable procedures at any given time.

Section 3 of this guide gives details of circumstances for eligibility and procedures for obtaining exemptions/relief under the different taxes as appropriate.

Nonprofit organisations can also make an application for Commissioners ruling under (TAA Section 11, read with ITA Section 64) to become a Charitable Organisation for tax purposes.

Charitable Organisations are eligible to certain tax relief that are not available to other non-profit organisations (Refer Section 3 below)

Note: A ruling by the Commissioner General does not exempt an organisation from paying taxes.

► **Read Annex 2 of this guide** for comprehensive information on how to become a Charitable Organisation for tax purposes, eligibility criteria, applicable tax incentives and worked out examples.

2.2.3 Objections and appeals

An organization has the right to object an assessment or tax decision made by TRA to the extent that right is provided by the law (Section 51 of TAA 2015)

► **Read Annex 3** of this guide for detailed procedures on how to make appeals and objections.

2.2.4 Correction of Errors (on issuance of EFD receipt)

Where an Organisation makes a mistake on issuance of EFD receipt should inform in writing to the nearest TRA office for notification and maintain a copy for future reference.



3. Payment of Taxes

Every non-profit organisation has a duty to pay taxes timely as they fall due in order to avoid the penalties and/or interest prescribed under the relevant tax laws.

3.1 Common taxes and non-tax revenues relevant for nonprofit organisations

Nonprofit organisations in Tanzania are eligible to pay the following taxes.

Type of Taxes	Additional Information
Corporate Tax – Charitable organisations	Annex 2
PAYE	Annex 4
Skills Development Levy (SDL)	-
Withholding tax on services	-
Withholding Tax on Rent	-
Return on Investment	-
Stamp Duty	-
VAT & Customs Duty	-

3.1.1 Corporate Tax

Nonprofit organisations like any other taxpayers are eligible for paying corporate tax arising from undertakings carried by the organisations. An organisation's income for corporate tax purposes constitutes of all collections from economic activities, members' subscription fees, donations and grants.

Activity	Nonprofit organisations
Applicable rate	30% on Annual Taxable Income.
Payment procedures and Due Date	<p>Payments are made in quarterly instalments by the end of each calendar quarter for the year of income as stipulated in Section 88 of ITA 2015.</p> <ul style="list-style-type: none">▪ On or before 31 March▪ On or before 30 June▪ On or before 30 September▪ On or before 31 December <p>• Under Section 89 of ITA 2004, organisations are required to file an estimate of tax payable for the year of income by the end of the first quarter which is also a date for payment of the first tax instalment.</p> <p>• The filed estimate shall remain in force for the whole of the year of income unless a revised estimate is filed giving reasons for the revision. Revisions are allowed up to the last day of accounting period.</p>

Filing of Return	Section 91(1) of ITA (RE 2019) requires a taxpayer to file a return of income not later than six months after the end of each year of income to which it relates accompanied with Certified financial statements.
Penalty/Fine/ Interest	Failure to submit tax return by the due date and pay tax (if any) will attract penalty and interest accordingly under Section 76 and 78 of the TAA of 2015.

3.1.2 Pay As You Earn (PAYE)

Employees (whether full time, part time staff, temporary/casual, interns and volunteers) under non-profit organisations are subjected to PAYE as long as their gains/profit from employment exceeds the prescribed minimum threshold (read Annex 4 for a worked out example).

Activity	Description
Applicable Rate(s)	<p>A non-profit organisation, as an employer who makes a payment to employees shall withhold PAYE tax from payments made to employers at the rate prescribed by Commissioner for different income thresholds as updated from time to time.</p> <p>Visit https://www.tra.go.tz/index.php/payee</p>

Payment Procedures and Due Date	<p>Non-profit organisations need to accurately determine which components of their employees' income should be included in calculating the total taxable income from employment (Section 7 of ITA).</p> <p>Visit https://www.tra.go.tz/IMAGES/uploads/2017EMPLOYERGUIDEBOOKLET.pdf</p> <p>Non-profit organization are responsible to withhold and remit to the Commissioner on monthly basis (Section 81 of ITA).</p> <p>The amount withheld by the employer is required to be remitted to the Commissioner within seven days after the end of each month.</p>
Filing of Return	Monthly returns are submitted electronically through e-filing on or before the 7 th day of the month following the month of payroll.
Penalty/Fine/Interest	Section 76 & 78 of the Tax Administration Act Cap 438

3.1.3 Skills and Development Levy (SDL)

SDL is charged under section 14 of VETA Act Cap 82 and collected by Commissioner from employers having ten (10) or more employees. The levy is charged on monthly total gross emoluments payable by employers to all his employees in respect to that month.



Gross monthly emoluments" in relation to any employee includes wages, salary, leave pay, sick pay, payment in lieu of leave, fee, commission, bonus, gratuity and any subsistence, travelling entertainment or other allowance paid to him by the employer in respect of his employment or service, and any amount so paid in respect of employment or services rendered by the employee in any month other than the month in which it is paid, shall be deemed to be emoluments in respect of the calendar month in which it is paid.

Note:

- Organisations eligibility is determined on a month to month basis. Due to nature of funding and activities, non-profit organisations may have less than ten (10) employees with formal contracts but from time to time engage several others on casual or volunteer basis and pay them allowances. When that happens and the total number of persons receiving payment exceeds ten (10), then the organisation becomes liable to pay SDL on that month.

Activity	Description
Applicable rate(s)	The levy is equal to 4% of the total gross monthly emoluments payable by a non-profit organisation to all employees in respect of that month for Tanzania Mainland and 5% for Zanzibar.
Payment Procedures and Due Dates	<p>SDL is charged based on the gross pay of all payments made by the employer to the employees in the particular month.</p> <p>Employer shall pay to the Commissioner within seven days after the end of calendar month.</p> <p>The SDL payments shall be made using form ITX 300.01.E - Employment Taxes Payment Credit Slip</p>
Filing of Return	Monthly returns are submitted electronically through e-filing system on or before the 7 th day of the month following the month of payroll.
Penalty/Fine/Interest	Section 76 & 78 of the Tax Administration Act Cap 438



3.1.4 Withholding Tax from Service Fees and Contract Payments

A non-profit organisation has an obligation to withhold tax at the rate provided upon making payment for professional services rendered. The rate is 5 % for resident and 15 % for non-resident.

- Professional service include training, catering facilitation, projects reviews and evaluations, writing of strategic plans, research, community surveys, audit, printing, communication and advertising, security services etc. Non-profit organizations are advised to engage with consultant or service provider who are registered with TRA.
- Treatment of reimbursable costs in the determination of withholding tax base is subject to nature of service contracts. Organisations are advised to read Practice Note No 1 of 2019 for further guidance as shown hereunder.

▶ <https://www.tra.go.tz/Images/headers/Withholding-Tax-on-payment-for-Goods.pdf>

- Organisations are required to demand proper receipts from contractor's/service providers for any payments made for goods or services. Where the service providers, especially in rural areas, do not possess TIN and/or EFD machine (e.g. someone providing catering services for a community training), organisations are supposed to ask for manual receipts.

Activity	Description
Applicable Rate(s)	5 % for residents 15% for non-residents
Payment Procedures and Due Date	Every withholding agent shall pay to the Commissioner within seven days after the end of each calendar month any income tax that has been withheld during the month A withholding agent shall prepare and serve the withholdee a withholding certificate setting out the amount of payments made to the withholdee and income tax withheld from those payments
Filing of Return	Monthly returns are submitted electronically through e-filing on or before the 7 th day of the month following the month of withholding.
Penalty/Fine/Interest	Section 76 & 78 of the Tax administration Act Cap 438

3.1.5 Withholding Tax on Rent

Nonprofit organisations renting office premises or other spaces are required to withhold tax before making payments to landlords/managing agents.

Most private landlords tend to resist this deduction, however organizations must adhere to the prevailing tax laws as failure to do that attracts fines and penalties. The law requires the tax payment to be done by the tenant, not the landlord.



Activity	Description
Applicable Rate(s)	10% of the total rent amount
Payment Procedures and Due Date	Upon payment, a tenant will withhold the amount and remit to TRA as stipulated in Section 82 of ITA
Fine/Interest	Section 76 of TAA

3.1.6 Tax on Return on Investment

Non-profit organisations that own property/building and use it to derive income or hold investments in financial markets are liable to pay taxes on the investment return. This is a withholding type of tax paid to the Commissioner by a withholding agent (either a tenant, bank, listed companies, funds etc). Organisations with such investments should keep records/proof of tax payments by withholders.

3.1.7 Stamp Duty

Payment of Stamp Duty is guided by the Stamp Duty Act Cap. 189 R.E. 2019

Section 5 of the Act provides that, all documents (Instruments) listed in the schedule of the Stamp Duty Act and which are executed in Tanzania mainland or executed outside Tanzania mainland but, relate to any property, or any matter to be performed in Tanzania mainland, shall be chargeable with stamp duty

Non-profit organisations are reminded that in case of legal action and an organisation wishes to use an instrument as evidence, Section 47 (1) of the Stamp Duty Act restricts chargeable instruments to be admitted in evidence for any purpose by any person unless such instrument is duly stamped. Court's proceedings have been frustrated at times because of non-compliance.

When in doubt as to whether an instrument is required to be stamped or as to the amount of the Stamp Duty, contact the nearest TRA Office.

Applicable Rates

Stamp duty is charged *under* Section 5 of the Act at different rates specified in the Schedule to the Stamp Duty Act cap 189 *R.E 2019* as amended by Finance Act, 2021.

► **Read** <https://tanzlii.org/tz/legislation/act/2019-60> for specific rates under each instrument

Most common instruments for nonprofit organisations include:

- Conveyancing documents (transfer of ownership)
- Commercial contracts
- Valuation reports
- Memoranda and Articles of Association
- Powers of Attorney



Payment Procedures Dates	<p>Within 30 days from signing an instrument, the instrument holder is required to take the instrument to TRA for stamp duty assessment and payment. Due date is within 30 days from the date of signing/execution of an instrument.</p> <p>Section 41 of the Act gives room for parties to agree on who shall be liable to pay the stamp duty. In the absence of an agreement, Act specifies which party is liable to make the payment.</p>
Offenses Penalty Fines	Covered under Sections . 73, 74, 75 and 76 of Stamp Duty Act.

3.1.8 Import Duty, Excise Duty and VAT Exemptions

Exemptions of import duty (ID) and excise duty (ED), except Excise Duty on aged motor vehicles (8 years and above from the date of manufacture) on imported goods by non-profit organisations is granted in accordance with Government Notices (GN) number 205 and 206 of year 2016 respectively. Religious and Charitable organisations implementing projects relating to health, water, education and infrastructure are the only NGOs eligible for exemption under these provisions. Religious Organizations would be exempted on goods imported for religion advancement.

Exemptions of VAT granted to non-profit organisations is circumstantial in accordance with item 6, 7, and 8 of Part II of the schedule of the VAT Act, 2014. Exemptions would be granted either

on imported food, clothing or other goods e.g. shoes for free distribution to orphanages or to schools for children with special needs; or on imported emergency goods for disaster relief; or in case of religious organization, on goods imported for free provision of health, water, education, or religious services and in case where there is any consideration it should not be more than fifty percent of fair market value.

An organisation that is eligible for exemption would make an application for exemption by writing to Commissioner for Customs and Excise before imported goods are cleared through customs.

NB: Nonprofit organization under VAT Act, 2014 means Religious or Charitable organisations

The application will be supported with the following documents;

- An application letter by the head of the organisation or the one acting on behalf
- An introduction letter from District Commissioner (DC) where the project is implemented
- An introduction letter from a Ward Executive Officer (WEO) where the project is implemented
- Registration Certificate of the respective NGO (Religious/Charitable Organization) from Ministry of Home Affairs, Ministry responsible with Community Development, or from Registration Insolvency and Trusteeship Agency (RITA)
- TIN Certificate, and
- Commercial documents for imported goods (i.e. invoice, bill of lading, packing list)
- Organization's annual procurement plan



- Organizations utilization report accounting for the remission granted during the previous year (if any)
- Donation certificate in case of donated goods
- Distribution plan on the imported goods (especially when imported goods are in a form of general merchandise:
- Any other relevant information to support the application

Exemption of customs duties for importations by eligible NGOs is effected through payments made by government through Treasury Voucher and Cheque (TVC) procedure. ---

- A successful applicant will be issued with an exemption letter as approval to be used throughout the customs clearance process. Importing organisation through appointed Customs Agent lodges its declaration to ascertain amount of customs duties required for the imported goods.
- Thereafter, the organisation would request through Commissioner's office payment from Treasury of the exempted amount. There is a special form to be completed in this regard. The Treasury will issue a cheque with equivalent amount of exempted duties and taxes. The cheque would be deposited to settle the exempted amount and the importer would be required to top-up for remaining tax amount where applicable (e.g. VAT and Excise Duty for used items)

Important Points:

- Timely submission of applications: Most organisations eligible for exemptions do not submit applications in good time. Organisations are advised to send the application as early as possible to have the ruling made before arrival of the goods in order to avoid demurrage charges unless the request is related to emergency interventions.
- Offenses on disposal of Import Duty exempt goods: When non-profit organisations that have benefited from Import Duty exemptions do not follow prescribed procedures for disposal of related assets and pass on the benefit to persons not entitled to such benefits they are committing an offense (Under section 119 of the EACCMA, 2004).
- Accountability for past exemptions: For accountability purposes, organizations receiving exemptions are required to provide utilization reports accounting for the remission previously granted (and asset disposal procedures wherever applicable)





Annex 1 List of Applicable Tax Laws

Common Tax Laws

The Tax Administration Act, Cap.438 R.E,2019

The Income Tax Act, Cap. 332 R.E, 2019

The Value Added Tax Act, Cap.148 R.E, 2019

The Stamp Duty Act, Cap.189 R.E,2019

The East African Community Customs Management (Amendment) Act, EACG NO.2, 2011

The East African Community Customs Management Act, R.E, 2009

The Excise (Management and Tariff) Act, Cap.147 R.E,2019

The Motor vehicle (Tax Registration and Transfer) Act, Cap.124 R.E,2019

Other Tax Laws

The Tanzania Revenue Authority Act Cap.399 R.E,2019

The Tax Revenue Appeals Act, Cap.408 R.E,2019

The Airport Service Charges Act, Cap.365 R.E,2019

The Port Service Charges Act, Cap.264 R.E, 2019

The Hotels Act Cap. 105 R.E, 2006

The Local Government Authorities (Rating) Act, Cap.289 R.E, 2019

The Local Government Finances Act. Cap.290 R.E, 2019



Regulation under the Tax Administration Act

The Tax Administration (General) Regulation, GN. NO.101, 2016
The Tax Administration (Transfer Pricing) Regulations, GN. NO.166, 2018

Regulations under the Income Tax Act

The Income Tax Regulation, GN. NO.464, 2004
Transfer Pricing Guideline, July 2020

Regulations under Value Added Tax Act

The Value Added Tax (General) Regulations, GN. NO.225, 2015
The Value Added Tax (General) (amendment) Regulations, GN. NO.608, 2018

Regulations under the EAC Customs Management Act

EAC Customs Management (Duty Remission) Regulations, 2008
EAC Customs Management Regulations, 2010
EAC Customs Management (compliance and enforcement) Regulations, EACG NO.7, 2012

Other Regulations

The Port Service Charge Regulations, GN. NO.743A, 2019
The Road Traffic (Motor Vehicles Registration) (Amendments) Regulations, GN. NO.744A, 2019
The Road Traffic (Amendment) Regulations, GN. NO.745, 2019

Road Traffic (Motor Vehicles Registration) Regulations GN. NO. 177, 2001
The Road Traffic (Motor vehicle Registration) (Amendments) Regulations, GN. NO.205, 2014
The Road Traffic (Motor Vehicles Registration) (Amendment) Regulations GN. NO.230D, 2017
The Fire and Rescue Force (Safety Inspections and Certificates) (Amendments) Regulations GN.NO.230B, 2017
The Tax Administration (General) (Amendment) Regulations GN. NO.230E, 2017
The Tourism Development levy Regulation, GN. NO.352, 2013
Tax Administration (Electronic Revenue Collection System) Regulation, GN. NO. 230A, 2017
The Electronic Tax Stamps Regulations GN. NO.16, 2018
The Local Government Authorities (Rating) (Collection of property rates) regulations, GN. NO.1, 2020
The Tax Administration (Registration of small vendors and service providers) regulations, GN. NO.36, 2020
The TRA (Assessment, Collection and Accounting for Advertisement fee for Billboards, Posters and Hoarding) Regulations, GN. NO.2, 2020



Annex 2 Taxation of Charitable Organisations

1. BECOMING A CHARITABLE ORGANISATION

A non-profit organization becomes charitable organization after it has been issued with the Commissioner's private ruling under Section 11 of the Tax Administration Act Cap 438 following his satisfaction that, the establishment, objectives and functions of the entity are of the nature described under Section 64(8) of the income Tax Act Cap 332. In principle, charitable organisations in the context of Section 64 of the Act are treated as conducting charitable business, when they fulfil conditions provided under Section 64(8). As such they are not exempted from Income tax, rather their chargeable income is determined in accordance with the provision of section 64(2) of the Income Tax Act Cap 332. Therefore, the difference between taxing the normal entity and entity with charitable status rest on items constituting to chargeable income and that of allowable expenditure in arriving at taxable income.

Application procedures and qualifying criteria

The application for a ruling is done by writing an application letter to the Commissioner along with form No. ITX 902.01 E.

The application should also be attached with following attachments;

- Registration Certificate of the Organisation.
- Introduction letter from District Commissioner, indicating the project (s) the projects performed by the Organisation in the area

- Financial statements at least for three years.
- The Organization's constructive document
- The Organization's TIN Certificate

Note: *An organization must already be in operation before making an application to enable the Commissioner to assess eligibility.*

According to the Income Tax Act (ITA) Cap 332 R.E 2015 under Section 64 (8) a charitable organization or religious organisation means a resident entity of a public character that satisfies the following conditions;

Being an entity of public character, which was established and functioning solely as an organisation for:

- (i) the relief of poverty or distress of the public,
- (ii) the advancement of education; or
- (iii) the provision of general public health, education, water or road construction or maintenance;

Entity of Public Character means an entity established and functions solely for a public purpose and which operates in such a way that:

- its membership is open to the general public or an identifiable group of a community with common interests;
- It operates for purposes other than deriving profit or gain;
- It does not allow any distribution or deemed distribution of profit generated out of its charitable business;
- its profit is ploughed back and used solely for improving or expansion of the original or charitable purpose or function. Public character means the benefits of the organization are directed to the community or a section of the community and not to individuals based on their personal identities



'Public Character' is two fold:

(i) Non-discriminatory in terms of beneficiaries

Mkombozi Trust provides medical services to a restricted section of villagers, who are identifiable by their personal characteristics, say teachers from three primary schools only and not available to other members of the village. As such the entity does not qualify as possessing a public character as the beneficiaries of the services are earmarked as the teachers that can be identified by their names and the service is not available to other villagers. If the services were made available to all members of the village or even part of the village without restriction, then the organisation assumes public character even if it was established in order to provide service to a specific group of people.

(ii) Non-discriminatory in terms of membership

Mambo Mazuri NGO in its constitution expresses its members as Joshua, John, Amos and Anna exhaustively.

Waungwana NGO in its constitution express its members as Octavian, Kanasia, Nyamtondo and Mallya. It further express that any Tanzanian of full age and with common interest can apply and become a member to the organisation.

Mambo Mazuri NGO above, does not qualify as an entity of "Public character" whereas, Waungwana NGO's qualifies.

DETERMINATION OF TAXABLE INCOME FROM A CHARITABLE ORGANISATION/BUSINESS.

The income of a Charitable organisation from its charitable business is calculated based on the requirement of Section 64(2) of the Income Tax Act Cap 332 as follows:

- a) there shall be included together with any other amounts required to be included in calculating income under the Act, all gifts, contributions and donations received by the organisation; and
- b) there shall be deducted, together with any amount deductible under the Act
 - i. amounts applied in pursuit of the organisation functions by providing reasonable benefits to resident persons or persons resident anywhere provided that such expenditure has a source in the United Republic; and
 - ii. 25 percent of the organisation's income from its charitable business calculated without deduction of the amounts applied in pursuit of its functions and any investment.

It should be noted that, offsetting losses from charitable business against income from non-charitable business is not allowed. Moreover, where a charitable organisation or religious organisation wishes to save unapplied fund for a project that is detailed in material particular and which the organisation is committed to; the Charitable organisation or religious organisation may apply to the Commissioner



and the Commissioner may approve the saving on meeting the requirement of Section 64(2)(b)(i) of the Act.

3. TAXABILITY OF GAINS DERIVED FROM INVESTMENT

Income derived from investments including gains from realisation of an investment asset of a Charitable organisation or religious organisation is not taxable in accordance with the provision of Section 64(2) (b(ii) of the Income Tax Act Cap 332. That is, any gains realized from the investments or sale of an investment asset of a Charitable or religious organization shall be excluded from the determination of chargeable income of a Charitable or religious organisation for the year of income provided that, such gain is re-invested or applied to charitable activities.

4. INCOME OF AN ORGANISATION WHICH CEASES TO BE A CHARITABLE OR RELIGIOUS ORGANISATION.

Where an Organisation ceases to be a Charitable or Religious Organisation during a year of income, the Charitable or Religious Organisation shall be treated as conducting business other than its previous charitable business.

After cessation of charitable business, the Organisation will include in calculating its income for the year of income from business, any amounts claimed as a deduction when calculating the income from charitable business as provided for under Section 64(2)(b)(ii) of the income Tax Act; that is, the related 25percent of the charitable business income and any investment income during which the Organisation was a charitable or Religious Organisation

5. WORKED EXAMPLES ON CALCULATION OF TAXABLE INCOME

Chargeable income is calculated based on the manner described in Section 64(2) and 64(3) of the Income Tax Act as below:

A. Amount to be included

- Income from Charitable business
- Income from investments
- Gifts and Donations
- Other amounts required to be included

B. Amount to be excluded

- Amount applied in pursuit of its charitable functions
- Income from investments
- 25 percent of total income from charitable business including Gifts and Donations.
- Approved savings for future application¹
- Other amounts required to be excluded

Below are examples on how chargeable income of a charitable organisation or religious organisation is calculated for any year of income from its charitable business

¹ S.64(7) of ITA provides that, "Where a charitable organisation or religious organisation wishes to save funds from one financial year to the next for a project that is detailed in material particulars and which the organisation is committed to, the organisation may apply to the Commissioner and the Commissioner may approve the saving as meeting the requirements of subsection (2)(b)(i)." If the commissioner approves the saving it will be deductible amount when calculating the income for that year of income.



Worked Example No.1

Suppose the income of the organization from its charitable business is TZS. 250,000,000 excluding TZS. 50,000,000/= received by way of voluntary contributions. It is assumed that the income applied for the purposes of the trust is TZS. 180,000,000.

TRANSACTION PARTICULARS	AMOUNT
Income from charitable business for the year ended Dec 2019	250,000,000
Voluntary contributions deemed income Under section 64(2)(a)	50,000,000
Income from charitable business for the year of income	300,000,000
Less: Income applied in pursuit of its functions	180,000,000
Surplus/Unapplied income for the year of income	120,000,000
Less 25% of gross receipt (additional allowance)	75,000,000
Income chargeable to tax at corporate rate of 30percent	45,000 ,000

It is important to note that as deliberated above , the maximum non-application of income admissible is 25 percent of the total income of the organization (that is 25 percent of TZS 300,000,000.) which is TZS 75,000,000. The balance of unapplied income in the amount of TZS 45,000,000 is liable to tax during the year of income.

Worked Example No.2

Suppose the income of the organization from its charitable business is TZS. 300,000,000 including TZS. 50,000,000 received by way of voluntary contributions and that, the income applied for the purposes of the trust is TZS. 230,000,000.

TRANSACTION PARTICULARS	AMOUNT
Income from charitable business for the year ended Dec 2019	250,000,000
Voluntary contributions deemed income Under section 64(2)(a)	50,000,000
Income from charitable business for the year of income	300,000,000
Less: Income applied in pursuit of its functions	230,000,000
Surplus/Unapplied income for the year of income	70,000,000
Less 25% of gross receipt (additional allowance)	75,000,000
Income chargeable to tax at corporate rate of 30percent	(5,000,000)

Since unapplied income of TZS 70,000,000 from charitable business of an Organisation is less than acceptable allowance of TZS 75,000,000.it then follows that, there is no income chargeable tax for the year of income.



Worked Example No.3.

MS Trust is a charitable Organisation providing charitable services in Tanzania. During year 2017, it had income of TZS 15,000,000 of which TZS 12,000,000 was applied toward charitable functions. Since unapplied income of TZS 3,000,000 was less than 25percent of the total income, the amount was not taxed.

During year 2018, the Organization derived income of TZS 25,000,000 of which TZS 10,000,000 was applied towards its charitable functions. The Organisation applied to the Commissioner to be allowed to save TZS 8,750,000 to be applied towards its functions in the year 2019. The Commissioner allowed saving of the amount². The balance of TZS 6,250,000 which is TZS 25,000,000 less TZS 18,750,000 (TZS 10,000,000+TZS

8,750,000) was not taxed. The Organisation ceased to be a charitable Organisation in the year 2019 before applying to its functions the amount of TZS 8,750,000 saved from its charitable business in the year 2018. The Organisation made income of TZS 16,000,000 during year 2019.

From this example, taxable income of the organisation will be calculated as follows

TRANSACTION PARTICULARS	AMOUNT
Business income for year 20-9	16,000,000
Additional chargeable income	3,000,000
Exempt amount in year 2017	6,250,000
Exempt amount in year 2018	8,750,000
Amount saved in year 2018	
Taxable income for year 2019	34,000,000

² An amount saved by a charitable organization or religious organization will not attract tax liability in the year of income. However, if the saved funds are applied for purposes other than the purposes for which they were saved or the organization ceases to be a charitable organization or religious organization, the amount previously saved will be taxed as income for that year of income.

Annex 3 Objections and Appeals

Objections and Appeals are governed by Tax Administration Act (2015) and Tax Revenue Appeals Act, Cap.408 as revised from time to time.

- An organisation that is aggrieved by a tax decision (Assessment decision) made by the Commissioner may object the decision by filling an objection in writing within 30 days from the date of the tax decision stating the grounds for the objection. An organisation may apply for an extension of time to file notice of objection within 7 days before expiration of the time limit for filing notice of objection.
- An objection will only be admitted after the taxpayer has paid amount of tax which is not in dispute or one third of the assessed tax whichever the amount is greater. Upon application by the taxpayer, the commissioner may warrant a reduction or waiver on the amount to be paid or accept a lesser amount when a taxpayer files an objection if satisfied that a good reason exists to do so. This application should be made within fifteen days before the due date for filing objection.
- After determination of an objection, if the taxpayer is still not satisfied with the decision of the Commissioner, the taxpayer has the right to appeal to "The Tax Revenue Appeals Board" in Tax Revenue Appeals Act, Cap.408.

Where and to whom the objection should be lodged?

All objections should be addressed to the nearest TRA Regional Manager of the region where the organisation operates.



Annex 4 Worked Example - PAYE

Example of Calculation of Taxable Income from Employment – What to Include

Read this case study together with section 72 subsection 2 and 3 of ITA Cap 332 RE 2019.

Mr. Joshua who is married to Maria with six children was employed by Global Company Limited as a Managing Director. He entered a contract with his company for a period of 5 years with effect from 1st January 2018. He was residing in Mwanza and obtained employment in Dar es Salaam. The employer paid his transport costs to Dar es Salaam of TZS 35,000/= for each member of his family. His salary was TZS 3,600,000/= per month. Other fringe benefits included:

- A company car Toyota Mark II 1800 cc registered in Tanzania 2010.
- School fees paid directly to the Karol Academy for his four children amounting TZS 6,000,000/=
- Medical services paid to AAR Health Services TZS 1,150,000/= p.a. for the employees.
- Life insurance premium paid to NIC TZS 50,000/= p.a.
- Telephone charges paid to TTCL TZS. 100,000 p.a.
- Electricity TZS 80,000/= p.a
- Water (DAWASA) TZS 30,000/= p.a.
- The Company also provides cafeteria services to its employees at a cost of TZS 2,000/= per day.
- He was also availed with security services from XYZ Ltd. and the Global Company paid TZS 60,000 p.m.
- His domestic servant was signing company's payroll for a payment of TZS 50,000/= p.m. during the year 2018.

- The contract of service was made between Mr. Joshua and Global Company Limited on 31st December 2017.

Mr. Joshua’s total taxable income for the year 2018 will include;

▪ Salary 3,600,000x 12	TZS 43,200,000
▪ Transport to DSM for extra 2 persons 35,000 x 2	TZS 70,000
▪ School fees	TZS 6,000,000
▪ Telephone charges	TZS. 100,000
▪ Electricity	TZS 80,000
▪ Life insurance premium	TZS 50,000
▪ Security services 60,000 X 12 =	TZS 720,000
▪ Domestic servant payment 50,000 X 12	TZS 600,000
▪ Water	TZS 30,000
TOTAL ANNUAL INCOME	TZS 50,850,000

Mr Joshua PAYE is to be withheld from the total income of TZS 50,850,000 after taking away the amount contributed to an approved retirement fund (e.g. NSSF).

NOTE: *Cafeteria services were provided on non-discriminatory basis so it will not be included in the calculation of employment income.*

The same applies to Medical services paid to AAR Health Services this is not a benefit which is taxable.



Partners

