




THE LEGAL AND REPORTING REQUIREMENTS TOOLKIT


A COMPREHENSIVE GUIDE FOR CIVIL SOCIETIES IN TANZANIA

December 2024

THE LEGAL AND REPORTING REQUIREMENTS TOOLKIT


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Year of Publication: - 2024

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TEMPLATE OF THE LETTER TO PO-RALG	Error! Bookmark not defined.

Abbreviations

CSO	Civil Society Organization
COSTECH	Tanzania Commission for Science and Technology (COSTECH)
FIU	Financial Intelligence Unit
GNP	Gross National Product
NGO	Non-Governmental Organizations
NIS	NGOs Information System
OSHA	Occupational Safety and Health Authority
TANGO	Tanzania Association of Non-Governmental Organizations
TCRA	Tanzania Communications Regulatory Authority
USD	United States Dollar
PO-RALG	President's Office – Regional Administration and Local Government

Introduction

According to the United Nations (UN), civil society are groupings of people with a common interest in addressing certain challenges within the community, motivated to use their skills and knowledge for a not-for-profit intention.¹ These groupings are important actors in catalyzing development in the national social, economic, political, cultural and democratic processes in any nations. Some of these groupings include Non-Governmental Organizations (NGOs), faith based organizations (FBOs), trade unions and associations just to mention a few. In Tanzania non-governmental organizations (NGOs) is one of the many important actors in the civil society space in Tanzania, whose role has highly contributed in the national development.

For the purpose of regulation and coordination by the government, these groupings are formally registered depending on the law in place within the country. The effect of registration is the creation of a “Legal Entity” which has a separate and distinct identity from its founders, board members and staff. The entity is capable of entering into contracts with other entities and can sue and be sued.

The NGO Policy of 2001 in its introduction highlights that Non-Governmental Organizations (NGOs) are increasingly being recognized by the government as potent forces for social and economic development; important partners in nation building and national development; valuable forces in promoting the qualitative and quantitative development of democracy and not least, important contributors to Gross National Product (GNP). Further the Government of Tanzania recognizes the need to work together with NGOs and the need for such cooperation to extend to other key players, including funders, disadvantaged people themselves, other sectors of civil society and the wider public. NGOs have also been re-examining and evaluating their work, re-defining their roles, whom they serve and are accountable to, and endeavoring to function more effectively and efficiently.

This toolkit aims to address requirements on registration, permits, reporting, access to funding requirements and financial incentives and reliefs. Fulfilling such legal and reporting obligations by NGOs is very important as it enables the organization to continue to exist, secure trust, legitimacy from its constituency and partners and advancing different initiatives in accordance with the mission and vision of the organization.

This toolkit has been developed to help different NGO players who seek to understand how to meet the different legal obligations. There are 6 parts of which the toolkit will address in relation to what NGOs are supposed to comply with in the process of ensuring that they are in existence and that they are legally recognized.

- a) An Overview of Tanzania Legal Framework
- b) Rationale of the Toolkit
- c) Legal and Reporting Requirements Under Different Laws for Non-Governmental Organizations

¹ [The UN and Civil Society | United Nations](#)

- d) Data Protection and privacy
- e) Recommended Good Practices Which Aids NGOs In Fulfilling Their Legal and Reporting Requirements.
- f) Reporting Forms and Templates Under Different Laws.

These are the key issues which will be analyzed and elaborated in the legal and reporting toolkit

Part I: An Overview of Tanzania Legal Framework

Under this part, a recap of the historical development of the non-governmental organizations in Tanzania will be provided for the purposes of making stakeholders in the NGO sector understand the essence of their existence

Mandate to oversee issues governing NGOs in Tanzania Mainland

The Ministry of Community Development, Gender, and Persons with disabilities is mandated under the law to regulate and oversee activities done by NGOs in Tanzania. This is provided for under the NGO Act of 2002.

Under Section 2 of the NGO Act the Registrar of NGOs has been vested with the powers of coordinating and regulating NGOs in Tanzania. Practically and currently, the Registrar of NGOs works under the Ministry of Community Development, Gender, and Persons with disabilities. At the ministerial level, there is an NGO Department, which is headed by the Registrar of NGOs as the Director. This is also reflected under Section 3(2) of the NGO Act of 2002.

Mandate to oversee issues governing other civil societies

In Tanzania civil societies are registered under different Ministries for the purposes of ensuring that there is proper coordination and regulation. Civil societies like Societies (Religious Institutions) and Trusts are registered and regulated under the Ministry of Home Affairs. This is an example of where civil societies are registered and coordinated

Part II: Rationale for The Toolkit

The legal and reporting toolkit aims to centralize information of key requirements which have to be adhered to by Non-Governmental Organizations. This toolkit majorly aims to do the following

- a) Helps NGOs to mitigate risks arising from non-adherence of legal and reporting requirements.
- b) Improves relations between NGOs and other stakeholders as actors who respect the rule of law.
- c) Improve NGO operational efficiency through compliance fostering organizational excellence

This toolkit references different guides developed by other CSOs to assist NGOs comply with existing legal and reporting requirements including the Guide on Taxation for Non-profit organizations in Tanzania by THRDC and WAJIBU – Institute of Public Accountability²also the

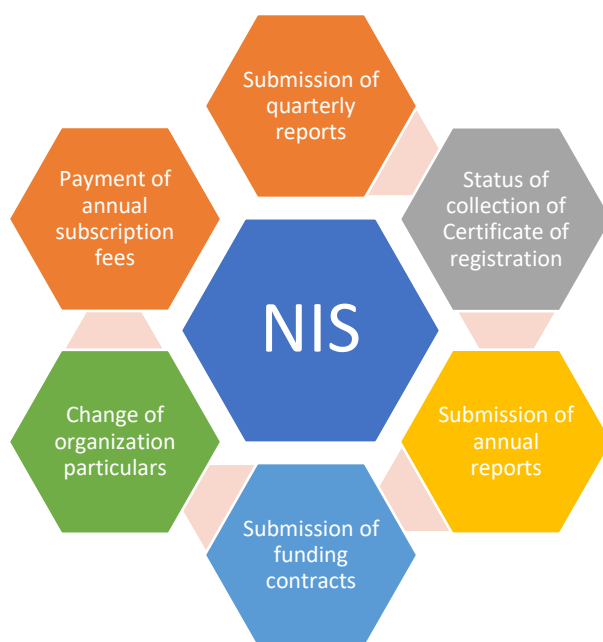
² [CSOs TAX COMPLIANCE TOOLKIT.pdf \(thrdc.or.tz\)](https://thrdc.or.tz/CSOs%20TAX%20COMPLIANCE%20TOOLKIT.pdf)

Manual on compliance with legal and regulatory frameworks done by Policy forum and Foundation for Civil societies (FCS).³

This toolkit is unique and compliments other tools by providing detailed guidance on legal and reporting requirements in both English and Swahili with annexes that NGOs can refer to in a user-friendly format to aid their compliance and sustainable operations in Tanzania.

Part III: Legal and Reporting Requirements Under Different Laws for Non-Governmental Organizations.

Requirements under the Non-Governmental Organizations Act No 24 of 2002 (Revised on 2005 and 2019) and the Coordination Guideline for Non-Governmental Organizations in Mainland Tanzania.



Above Illustration: Legal and reporting requirements that can be done through the NGOs Information System (NIS) Requirements

³ [Manual on CSOs Compliance A5 ENGLISH.pdf \(policyforum-tz.org\)](https://policyforum-tz.org/manual-on-csos-compliance-a5-english.pdf)

Procedures for registration

For Local NGOs

There are pre-registration requirements for individuals intending to register a local NGO. The following are the four requirements to be met.

- i. It must have not less than 5 founding members who should all be Tanzanians.
- ii. Submission of the Constitution of the organization to be registered
- iii. Submission of minutes signed by the founding members
- iv. Submission of the recommendation letter from the local government authority within the area where the office will be established to the Assistant Registrar in the district or region where the physical office address is located

For international NGOs

- i. It must have not less than 5 members with at least two Tanzanians
- ii. Submission of the copy of the Constitution of the organization as founded in the original country of registration.
- iii. Submission of the copy of the certificate of registration from the Country where it is registered.
- iv. Submission of the minutes of the meeting by the founding members, agreeing to comply with the Laws of Tanzania and register the organization
- v. Submission of the recommendation letter from the local government authority of where the office will be established to the Assistant Registrar in the district or region where the physical office address is located

Registration of Non-Governmental Organizations (Local and International NGOs) is done electronically through the NGOs Information System (NIS) through the following website (www.nis.jamii.go.tz)

Registration Fees

The following are the current rates for payment of registration fees for NGOs in Tanzania Mainland.

For International Organizations – USD 350

For Local Organizations

- NGOs operating in the National Level – Tsh. 115,000
- NGOs operating in the Regional Level – Tsh. 100,000
- NGOs operating in the District Level – Tsh. 80,000

Stamp Duty fees

Stamp duty: For Local organizations Tsh.1,500/=

Stamp Duty: For International Organizations Tsh.4500/=

Submission of reports

NGOs are supposed to submit the following information electronically through the NGO Information System Portal available through www.nis.jamii.go.tz.

The NIS System is an online platform designed to streamline the registration, reporting, and management of Non-Governmental Organizations (NGOs) in the country.

It's a centralized system that provides a digital interface for NGOs to interact with the government, particularly the Ministry of Community Development, Gender, Women, and Children.

S/N	Report Name	Year	Date	Status	Action
1	First Quarter	2023	17 April, 2023	Submitted	Show
2	Second Quarter	2023	03 July, 2023	Submitted	Show

Above: Illustration on the NIS portal, where reports are uploaded

Submission deadline dates

Deadline for the submission of the annual reports and payment of fees opens on 1st January every year to 15th April at 3:30pm every year

Submission of funding contracts


This is done online through the NGO Information System (NIS) where submission of the required contract documents will be uploaded for consideration of approval from the office of the Registrar of NGOs

S/N	Donor	Amount	Purpose of Fund	Status	Action
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Above: Illustration of the section where one can add a funding contract

Contract Attachments		
Contract Attachments		
S/N	Attachment Name	Action
1	Funding Contract	Download Remove
2	Strategic Plan	Attach if Applicable
3	Work Plan	Attach if Applicable
4	Project Application Form Contract	Attach if Applicable
5	Initial Approval of the Project from Relevant Ministry	Attach if Applicable
6	Proof of Deposit	Attach if Applicable

Above: Illustration in the NIS System of the attachments for funding contract submission

NIS

Above: Illustration on the receipts section after making payment of the annual subscription fees

THE UNITED REPUBLIC OF TANZANIA
MINISTRY OF COMMUNITY DEVELOPMENT, GENDER, WOMEN AND SPECIAL GROUPS

Tel: 255-26-2963341/2963342/2963346
Fax: 255-26-2963348
Email: ps@jamii.go.tz
Website: www.jamii.go.tz



Government City - Mtumba, Health Road,
P.O. Box 573,
40478 DODOMA

In reply please quote:

Ref. No. EF.168/196/03 03rd November, 2023

Director,
Tanzania Association of Non-Governmental
Organization (TANGO),
P.O Box 31147,
DAR ES SALAAM.

RE: APPROVAL OF FUNDING CONTRACT / AGREEMENT

2. Pursuant to the provision of Regulation 13(b) of the Non-Governmental Organizations Act (Amendment) Regulations, Government Notice No. 609 of 2018, I hereby approve the funding contract entered between your Organization and Global Affairs Canada (GAC), on 26th day of September, 2023 for provision of _____ for the purposes of providing digital advocacy training and networking opportunities to small CSOs to enhance their advocacy initiatives.

3. Kindly be informed that such fund is subjected to auditing pursuant to the provision of section 29(1)(b) of the NGOs Act No. 24 of 2002 (as amended).



Mussa Sang'anya
For: REGISTRAR OF NON-GOVERMENTAL ORGANIZATIONS

Above: Sample of an Approval letter from the Registrar of NGOs

Post Registration Requirements for Non-Governmental Organizations operating in mainland Tanzania under the NGO Act

In Mainland Tanzania, Non-Governmental Organizations (NGOs) are supervised and coordinated by the National Policy on Non-Governmental Organizations, 2001 and the NGOs Act No. 24/2002 as amended by Act No.11/2005 and Act No.3/2019 and its regulations.

In this regard, NGOs are obliged to:

- a) Submit quarterly activity reports in accordance with Regulation 20 of the NGOs (Amendments) Regulations, 2019 G.N 685
- b) Submit Annual Activity and Audited reports as provided by Section 29(1) (a) and (b) of the NGOs Act No.24/2002
- c) Pay annual subscription fees pursuant to Section 38(2) (b) of the NGOs Act No.24/2002 and regulation 6 of the NGOs (Amendments) Regulations, 2014. The current fee as of November 2024 is Tsh.50,000/= for local organizations and \$100 for international organizations
- d) Publish biannually in media channels which are easily accessible by the targeted beneficiaries, the funds received and expenditure in accordance with Regulation 13(a) of the NGOs (Amendments) Regulations, 2018.
- e) Submit funding contracts or agreements of funds exceeding twenty million Tanzania shillings to the Registrar of NGOs for approval not later than ten days from the date of entering the said contract or agreement pursuant to Regulation 13(b) of the NGOs (Amendments) Regulations, 2018.
- f) Declare to the Registrar of NGOs any other resources received either in cash or in kind as provided by Regulation 13(c) of the NGOs (Amendments) Regulations, 2018
- g) Submit to the Registrar of NGOs notice of change of particulars in the Constitution of a registered NGO Pursuant to Section 33(1) of the NGOs Act 24/2002

Consequences for non-adherence to the legal and reporting requirements under the NGO's Act No.24 of 2002

NGOs that fail to comply with the reporting requirements listed above are subject to various administrative sanctions as follows:

- a) Payment of one hundred thousand Tanzanian shillings (TZS 100,000) each year for late submission of the annual activity and audited reports, as well as payment of annual subscriptions for a local NGO as per Regulation 6 of the NGOs (Amendments) Regulations, 2014.
- b) Payment of three hundred American dollars (USD 300) each year for late submission of annual activity and audited reports, as well as payment of annual subscriptions for an international NGO as provided by Regulation 6 of the NGOs (Amendments) Regulations, 2014.
- c) Payment of a fine not exceeding five hundred thousand Tanzanian shillings (TZS 500,000) or to imprisonment for a term not exceeding one year or to both such fine and imprisonment for forgery, conducting fundraising activities contrary to NGOs Act or

contravening any regulation any regulation or rules made under NGOs Act as per Section 35(1) of the NGOs Act No.24 of 2002.

- d) Payment of a fine not exceeding fifty thousand Tanzanian shillings (TZS 50,000) for every day during which the commission of the offence continues as may be ordered by the Court pursuant to Section pursuant to Section 36(2) of the NGOs Act No.24 of 2002

Additional Requirements under the President's Office – Regional Administration and Local Government (PO-RALG) (Introductory letter)

Before executing projects, NGOs are required to obtain an introductory letter from the President's Office- Regional Administration and Local Government (PO- RALG) to implement any activity in the regions. Non-adherence to submission of the introductory letter may lead to suspension of the activities that the NGO planned to implement

How to request for an introductory letter from the President's Office

a) How to submit the request for an Introductory letter

All NGOs are required to submit a letter to addressing the Permanent Secretary of the Ministry of the President's Office – Regional Administration and Local Government requesting to implement a project in any region of the country.

- i) The letter should have a physical address of the said organization. The physical address should include the postal address and phone numbers of the organization or of the executive director that is available online.
- ii) The letter should mention the name of the project and the area of which the specific project is going to be implemented (Region/Regions /Municipal/ Districts and Street if possible that the project will be implemented)
- iii) The letter should clearly state the beneficiaries of the specific project (For example children, women, etc.)
- iv) The letter should clearly state the time period of which the project will be implemented (Years/Months and the beginning date and the last date of the project)

Important attachments

- i) Copy of the certificate of registration.
- ii) Copy of the receipt of payment of the annual subscription fees.
- iii) Copy of the funding approval from the office of the Registrar of NGOs for projects receiving funding above Tsh.20,000,000/=
- iv) Copy of the funding contract for projects not exceeding Tsh.20,000,000/=
- v) Workplan of the project implementation by the NGO

b) Other important requirements

- i. All letters should be addressed to the Permanent Secretary, the President's Office - Regional Administration and Local Government (PO-RALG) through postal address, Express Mail Service (EMS), E-mail address (barua@tamisemi.go.tz) or they can be submitted physically in the open register at the President's Office - Regional Administration and Local Government. Those letters will be registered easily for follow up.
- ii. NGOs should avoid submitting requests to individual staff or personal addresses but should follow the official procedures for easy tracking.

Requirements under the Tax laws (Tax Administration Act of 2015, Value Added Tax Act of 2015; Income Tax Act Revised Edition of 2019).

Under this, the toolkit developed by Tanzania Revenue Authority (TRA) in collaboration with Tanzania Human Rights Defenders Coalition (THRDC) and WAJIBU Institute of Public Accountability (WIPA) will be attached as an Annex in this document, to avoid duplication of efforts. Further the document will also be available through the link in the footnote of this document.⁴

Application for Taxpayer Identification Number (TIN)

Under Section 22 of the Tax Administration Act provides that when an entity intending to carry out its activities, in this case where an NGO has been granted registration by the Registrar of NGOs the law under this section requires that the entity has to register for a Taxpayer Identification Number (TIN) within 15 days after commencement of operations.

The application of the TIN has to be supported with the following documents alongside with the application form

- i. Certificate of Registration
- ii. Constitution
- iii. 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)
- iv. An introduction letter from Ward Executive Officer (WEO).
- v. A lease agreement and/or Title Deed/Residence License of office premise.

Other requirements have been included under Appendix 1, of which has attached the revised second edition of the guide for Civil Societies on the Taxation for nonprofit organizations in Tanzania.

⁴ [CSOs TAX COMPLIANCE TOOLKIT.pdf \(thrdc.or.tz\)](#)

Legal Requirements governing research related activities:

This includes legal and reporting requirements under Tanzania Commission for Science and Technology (COSTECH) laws, National Institute for Medical Research (NIMRI) and other relevant legislations, providing requirements to be adhered to by NGOs.

Procedure to obtain research clearance under the Law:

The applicant (s) should fill in an application for research clearance, attaching a CV (Curriculum Vitae Form), a synopsis or script when forwarding both the applications. The application must be made two months before the commencing date of the research assignment.

Requirements for this permit include:

- A copy of pages of the passport with the detailed information of the passport holder
- Five passport size pictures of the applicant.
- Introduction letter from the institution or university inviting the applicant for research
- CV and certificate of the institution or university attended by the applicant
- A completed application form to be downloaded ⁵
- A completed Research Clearance form to be downloaded or provided by the Tanzania Commission for Science and Technology (COSTECH)
- Application fee of USD \$50 to be paid at COSTECH
- If your application is successful, you will be required to pay a research fee USD \$300 per person at COSTECH.

Researchers and academic book writers should send the application and fee directly to the Director General address cited below.

Director General,

Tanzania Commission for Science and Technology (COSTECH)

P.O. Box 4302, Dar es Salaam, Tanzania

Tel.: 255-22-700745/6/9, 75311/2

Fax: 255-22-775313/4,

Email: costech@costech.or.tz

website: <https://www.costech.or.tz>

⁵⁵ [TANZANIA COMMISSION FOR SCIENCE AND TECHNOLOGY](#)

Requirements under the Legal Aid Act No 1 of 2017 (For NGOs providing legal aid):

The above-mentioned law is an Act to regulate and coordinate the provision of legal aid services to indigenous people, to recognize paralegals, to repeal the Legal Aid (Criminal Proceedings) Act and to provide for other related matters

Any NGO that has been registered and wishes to provide legal aid services, must comply with the following procedures as stated under Regulation 5 of the Legal Aid Regulations (Government Notice 44 of 2018):

- 1) Every institution that intends to provide legal aid services shall apply to the Registrar of Legal Aid for registration as a legal aid provider in accordance with the provisions of the Act.
- 2) An application for registration shall be made in a form prescribed in the Second Schedule to these Regulations.
- 3) The application form shall be signed by the head of the institution or a person acting on that behalf and shall be stamped or sealed by the official stamp or seal.
- 4) The application form shall be accompanied by:
 - a) Application fees prescribed in the Third Schedule;
 - b) information relating to past activities related to legal aid, if any;
 - c) a clearance letter from the District Commissioner where the applicant intends to operate;
 - d) a clearance letter from the Regional Commissioner where the applicant intends to operate;
 - e) clearance from the Permanent Secretary of the Ministry responsible for local government where it intends to operate in the whole country.
 - f) All payments in relation to application fees shall be deposited in a prescribed bank account of the Office of the Registrar of legal aid providers
- 5) The office of legal aid provider shall be maintained and shall meet the following basic requirements as provided under Regulation 5(6) of the Legal Aid regulations: ⁶
 - a) a separate room for the advocate or paralegal;
 - b) a secretarial desk and a computer;
 - c) chairs or benches for clients;
 - d) a basic collection of reference material including legal materials and paralegal manual currently in use;
 - e) a book shelf;
 - f) Filing cabinet or places for properly keeping of the records;
 - g) physically easily accessible by people with disability.

⁶ [Legal Aid Regulations - TanzLII](#)



Above: Sample certificate of Registration of a Legal Aid Provider

After the application has been submitted to the Registrar of Legal Aid Providers, the determination of the application will be made in accordance with Regulation 6 of the Legal Aid Regulations (Government Notice 44 of 2018) as follows:

- i. The Registrar shall, after consideration of the contents and other necessary attachments register an institution as a legal aid provider.
- ii. Upon registration, the Registrar shall issue a certificate of registration to the applicant.
- iii. The certificate shall be of three levels (National level, Regional Level or District Level) as prescribed in the Fourth Schedule to these Regulations.

Requirements under the Occupational and Health Safety Act of 2003

This law provides legal requirements for NGOs to ensure the health and safety of the workers.

Section 16(1) of the Occupational and Health Safety Act (OSHA) provides that any person being the owner or occupier of a workplace is required to register the workplace with Occupational and Health Safety Authority (OSHA).

Section 16(2) further provides that before a workplace is used or if it was being used, should be registered as a workplace with Occupational and Health Safety Authority (OSHA)e

Section 17 of the OSHA Act provides for the procedure for registration of a workplace as follows:

- i. An organization shall send to the Chief Inspector a written application containing the following particulars set out in the First Schedule to this Act together with the prescribed registration fees which are as follows.
 - a) Name of the occupier, or intending occupier, of the factory.
 - b) Address and location of the factory/workplace.
 - c) Nature of the work carried on. or proposed to be carried on. in the factory/workplace.
 - d) Total number of persons employed, or intended to be employed, in the factory/workplace.
 - e) Capital investment of the whole undertaking.

Where the Chief Inspector is satisfied that the premises are suitable for use as a workplace, he shall register the premises and shall issue to the applicant a certificate of registration.

The compliance license will then be issued to the occupier of a workplace every twelve months, upon fulfilling occupational health and safety requirements and on payment of the prescribed compliance license fee to be paid annually. Practice indicates that officers from OSHA will visit the said organization, for another annual inspection.

Penalties

Under Section 17(5) of the OSHA Act further provides penalties where an organization has not complied with the requirements. The that has no Certificate of Compliance or Compliance license commits an offence and can face the following sanctions:

- i. Shall be liable to a fine of not less than one million shillings, and not more than five million shillings, or to imprisonment for a term not exceeding twelve months, or to both, and

In case the legal person who was convicted for committing an offense, continues to commits another offense, upon conviction is liable to a fine not exceeding one hundred thousand shillings, for each day on which the offence was continued

Requirements under the Fire and Rescue Force Act of 2007.

This provides for the legal requirements of which Non-Governmental Organizations are supposed to follow, when establishing an office:

Generally, after an organization establishes its offices, it should ensure that it has been inspected by an official from the Fire and Rescue Force to get the details of the required equipment that has to be on the premises.

After the pre-liminary inspection, the organization has to procure the required equipment and work on the observations made by the inspector to be addressed in meeting the required

standards. Afterwards the inspector will come and inspect the premises to ensure that the requirements have been complied with. The inspector will then request a control number from the Office for payment of the prescribed fee of which currently amounts Tsh.100,000 per year.

When the fee is paid, the certificate for compliance will be issued by the Fire and Rescue Force and is valid for a period of one year.

Requirements under the Electronic and Postal Communications Act, Cap. 306.

This provides for the registration of online content providers. This law is important for NGOs to take note of due to many NGOs using social media like YouTube, Blogs and other platforms where they publish information on diverse issues.

The general rule under Regulation 4 of The Electronic and Postal Communications (Online Content) Regulations, 2020 provides that no person or organization shall not provide online content services without obtaining a license from the Tanzania Communications Regulatory Authority (TCRA).

Further under Regulation 4(2) of the Electronic and Postal Communications (Online Content) Regulations 2020 provides that when a person or organization contravenes the provisions of sub regulation (1) commits an offence and shall, upon conviction, be liable to a fine of not less than five million shillings or to imprisonment for a term of twelve months or to both.

Regulation 5(1) of the Regulations provides for the categories of online content licenses shall be as follows:

- a) License for provision of predominant news and current affairs issued to an online content service provider whose content covers news, events and current affairs;
- b) License for provision of entertainment content of predominant issued to an online content service provider whose content covers music, movies, series, plays, drama, comedy, sports and any other related entertainment content;
- c) License for provision of predominant education and religious content issued to an online content service provider whose content covers religious information and content that aims at educating;
- d) Simulcasting license issued to mainstream broadcasting licensee with national coverage rights.

The law further highlights that for the purpose of licenses under categories (a), (b) and (c), mentioned above “predominant” means content not below 85 percent of the licensed category measured on a weekly basis.

Notwithstanding the conditions of the license under sub-regulation 1(a), (b) and (c), a licensee shall be required to provide other content in respect to matters of national security, public safety and crisis or emergencies revocation

Application for license, issuance of license suspension and revocation

The following are the procedures that one has to follow to obtain an online content publishing rights license:

- i. An organization will apply to TCRA by filling an application form prescribed in the law and paying fees of which for New District License amounts TZS 1,600,000; while District to Regional License Upgrade: TZS 1,600,000 and Regional to National License Upgrade: TZS 3,200,000
- ii. The application form shall be accompanied by-
 - a) certified copy of certificate of incorporation or certificate of registration;
 - b) certified copy of Tax Identification Number Certificate;
 - c) certified copy of Tax Clearance Certificate for companies or non-governmental organizations;
 - d) certified copy of National Identity Card;
 - e) list of owner and management team;
 - f) curriculum vitae of the staff;
 - g) editorial policy guidelines for news and current affairs license category;
 - h) Technical description for the facilities used;
 - i) Any other documents as the Authority may be required.

Period of validity of the license

The law provides that the license shall be valid for a period of three years and may be renewed for another period of 3 years.

The law further states that TCRA may, after consideration of an application and upon satisfaction that the applicant has complied with all requirements and submitted particulars, documents and such other information as required, issue a license.

Notification on the Application of a License

Where TCRA refuses to issue a license, it shall notify the applicant within fourteen days from the date of such refusal stating the reasons for refusal together with any other directions as the Authority may determine.

Revocation of a license

TCRA may, upon satisfaction that the terms and conditions to which a license was issued have been violated or breached, suspend or revoke the license. TCRA shall, after revocation or suspension of a license, notify the licensee in writing stating the reasons for the revocation or suspension.

Surrendering the license

Where a license is revoked or suspended, the licensee shall, within seven days after being served with the notice of suspension or revocation as the case may be, surrender the license to the Authority.

General obligations to be adhered to by the Licensee

A licensee shall comply with all the terms and conditions of the license and observe the following:

- a) ensure that online content is safe, secure and does not contravene the provisions of any written law.
- b) take into account trends and cultural sensitivities of the general public.

- c) establish policy or guideline on online content safe use and make it available to online content users;
- d) use moderating tools to filter prohibited content;
- e) have in place mechanisms to identify source of content;
- f) take corrective measures for objectionable or prohibited content;
- g) ensure that prohibited content as set out in the Regulations is removed immediately upon being ordered by the Authority;
- h) be responsible and accountable for the information he publishes;
- i) use password to protect any user equipment, access equipment or hardware to prevent unauthorized access or use by unintended persons;
- j) pay regulatory fees;
- k) not access, store, keep, publish, circulate or broadcast prohibited content; and (l) cooperate with law enforcement officers in pursuing functions under these Regulations.

Requirements under the Anti-Money Laundering Act, Cap 423 as Revised on 2019.

This law provides for prevention and prohibition of money laundering, the disclosure of information on money laundering, to establish a Financial Intelligence Unit and the National Multi-Disciplinary Committee on Anti-Money Laundering and other related matters.

NGOs are required where a reporting person suspects or has grounds to suspect that, funds or property are proceeds of crime, or are related or linked to or are to be used for commission or continuation of a predicate offence or has knowledge of a fact or an activity that may be an indication of money laundering, terrorist financing, proliferation financing or predicate offence, he shall within twenty four hours after forming that suspicion and, wherever possible, before any transaction is carried out-

- a) Take reasonable measures to ascertain the purpose of the funds or property, transaction or proposed or attempted transaction, the origin and ultimate destination of the funds or property involved, and the identity and address of any ultimate beneficiary;
- b) Prepare a report of the transaction or proposed or attempted transaction in accordance with subsection (2), and submit the report to the FIU by any secure means as may be specified by FIU. (2) A report required under subsection (1) shall contain such particulars as may be specified in the regulations to be made.
- c) A reporting person who has reported a suspicious transaction or proposed suspicious transaction in accordance with this Part shall, if requested to do so by the FIU or a law enforcement agency investigating the suspicious transaction, give such further information in relation to such transaction.
- d) Any person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction- (a) if the person is an individual, be liable to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years; or (b) if the person is a body corporate, be liable to a fine of not exceeding ten million or three times the market value of the property, whichever is greater.

Requirements under the Workers Compensation Act: Of which NGOs with workers have to adhere to in relation to the labor laws.

Generally, an employer in the NGO Sector in Tanzania is required to register by filling the required form and submit it to the Director-General of the Workers Compensation Fund (WCF) with the following details

- a) The prescribed particulars of the employer's business;
- b) Number of employees and their details.

Notification on any change

An employer shall, within seven days of any change in the particulars submitted to the Director General, notify the Director General of the change.

Failure to comply with registration

Any person who fails to comply with the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding fifty million shillings or imprisonment for a term not exceeding five years or to both.

Contributions to be made by the employer⁷

All employers in the formal sector from public and private in Mainland Tanzania are required to contribute to the Fund, where by employers in the private sectors contributes 0.5% while employers in the public sector contributes 0.5% of the employees' earnings. The following are the key issues to be considered;

- a) Employers can pay contribution through electronic means (portal.wcf.go.tz) after generating a control number;
- b) Contribution for related month shall be paid within that particular month or before end of the following month;
- c) The contributions are paid by employers and employers are prohibited from deducting their employees' earnings;
- d) Employee's earnings include basic salary and other fixed allowances;
- e) Employer who does not remit contributions on time will, in addition to the contributions required, pay two per centum (2%) of the amount unpaid as interest for the delayed contribution in line with Section 75 (2) of the Workers Compensation Act [Cap.263] read together with Regulation 13 (7) of the Workers Compensation Regulations, 2016 and Regulation 13 (7) of the Workers Compensation (Amendment) Regulations, 2021
- f) The rate of contributions applicable in the specific financial year will be published before its application.

⁷ [WCF | CONTRIBUTION](#)

Part IV: Data Protection and Privacy

Due to the fact that non-governmental organizations work with people within the communities and collect data, it is important to highlight different tips that NGOs have to follow in protecting such information from unauthorized access.

Meaning of the term “Data Subject”

The Data subject refers as person whose personal data are to be collected or processed.

These are the rights of the Data Subject;

1. The right to be informed; purpose of collected/processed data
2. The right of access; Controller/Processor is obliged to grant access
3. The right to rectification; upon controller/processor holding outdated data
4. The right to erasure/destruction; What data to be available/erasable
5. The right to restrict processing; request a limit of processing personal data
6. The right to data portability; data subject can move, copy or transfer data from one IT environment to another
7. The right of objection; objecting processing in certain circumstances.
8. The right to automated decision making; effect result of automatic data processing
9. The right to complain; Complain to controller/processor on personal data breach
10. The right to withdraw consent; stop collecting/processing subject data
11. The right to compensation; once proved damaged caused by data controller or processor
12. The right of transmission; expired data subject right can be transferred to heir

Part V: Recommended Good Practices Which Aids NGOs In Fulfilling Their Legal and Reporting Requirements.

Adherence to the legal and reporting requirements can be easily facilitated, where there are policies within the organizations, that have been approved by the organization's Board that oversees the day-to-day implementation of programs and administrative duties.

This part draws most of the issues from the NGO Code of Conduct

It is advised that each Non-Governmental Organization to abide to the following Code of Conduct:

- a) Be answerable to its constituencies and work in accordance with national laws.
- b) Have governing bodies which have clearly defined structures, roles and responsibilities.
- c) Have written procedures regarding the appointment, responsibilities and terms of members of the governing body and specify the frequency of meetings, quorum.
- d) Be responsive and accountable to the people it serves without compromising its core values, vision, mission and objectives.
- e) Develop and adhere to policies that prohibit direct or indirect conflict of interest by members of the governance structures as well as members, employees and volunteers of the organization.

- f) Ensure that the leadership of its organization is elected or appointed based on the principles of equal opportunities for all and that it observes and respects people's merits, capabilities and is representative of its constituencies.
- g) Shall not enter into contracts which undermine sovereignty of the state and rights of the people.

The NGO code of conduct further highlights that each Non-Governmental Organization shall:

- a. regularly communicate, in a clear and accessible manner its values, governance structure, mission objectives and approaches and progress made in its work (shall share the vision and mission to stakeholders and new members as often as possible)
- b. develop reasonable budgets that clearly correspond with its programs and plans; systematically monitor, evaluate, document and report on the progress of its programs and plans; conduct periodic independent evaluations that shall examine, among other aspects, the quality of results, effectiveness and impact of its work; and compile and make available to stakeholders an annual report that shall state the governing structures; the main achievements, challenges and lessons learned in the course of implementation, as well as the annual incomes, expenditures and balances. Financial Transparency and Accountability:
- c. Develop and adhere to clear, well defined and written financial regulations that are consistent with sound financial management principles and practice; seek to limit resources used towards fundraising and running costs to a reasonable level or standard;
- d. develop programs that take into account institutional strengthening and sustainability; for the purpose of sustainability, undertake financial resources sustainability activities;
- e. manage resources in a manner that is prudent and provides value for money, including where applicable by employing or involving competent personnel;
- f. ensure all financial transactions are transparently and fully documented, and that these documents are preserved for a defined number of years;
- g. ensure all substantive expenditures are authorized in a process that involves scrutiny by more than one officer, and where the chief executive or any other officer does not have unlimited authority
- h. ensure procurement is undertaken in a manner that provides quality at least cost, avoids favoritism and corruption, is transparent, documented and otherwise conforms to sound procurement principles; maintain a regularly updated assets register in accordance with sound accounting practice; maintain and manage bank account(s)
- i. Develop and adhere to clear policies regarding payments to staff, volunteers to avoid conflict of interest and incentives to distort organizational priorities; Prepare comprehensive and accurate financial statements in accordance with sound accounting practice;
- j. Ensure that its financial statements are independently audited by registered and competent auditors;
- k. Exercise zero tolerance on corruption and other form of substantive misuse of funds, and take effective actions to hold persons or institutions responsible accountable.

On Human Resources.

Development and adherence to clear, well defined, written human resource and administrative policies and procedures, consistent with the laws of Tanzania.

- Promote and enforce clear policies to avoid conflict of interest, nepotism, favoritism, corruption and ensure an environment where mutual respect and human dignity is fostered.
- Promote and practice fairness and non-discrimination in recruitment and to the maximum extent possible promote diversity and gender balance in staff composition.
- Ensure that the organization employment policies and procedures foster the utilization of the local capacity without compromising the quality of services and interventions.
- Conduct capacity development programs for staff, members and leaders to ensure existing potentials are fully developed and utilized.
- Establishment of clear disciplinary and grievance procedures.
- Foster and promote the capacities of national or local NGOs, rather than implementation at grassroots level. International NGOs shall foster and promote the capacities of national or local NGOs, rather than implementation at grassroots level. National level NGOs shall collaborate with grassroots NGOs, in instances where they have to do work at the grassroots level. Communication and Information Sharing:
- Ensure that there is effective Management and Information System which provides frameworks and guidelines of how stakeholders shall be informed of the organizational functions and outcomes and vice versa.
- Organizations should nurture the practice of sharing information within its constituencies and networks in order to facilitate learning of lessons, reduction of duplication of activities and increase efficient use of resources.
- Establishment of a data base which shall have basic information on all NGOs operating in the country. Council members shall collect information from, and disseminate it to different NGOs (through district, regional committees and networks).

These are some of the important issues an NGO has to adhere to, in order to fulfil the legal and reporting requirement

Part VI: Annex: Reporting Forms and Templates Under Different Laws.

This part of the toolkit shares tips and templates that NGOs can refer to when submitting different letters and reports to the regulatory authorities under the abovementioned laws.

Things to consider

- Whenever an organization wants to write a letter to any Ministry, it is advised to address the Letter to the Permanent Secretary.
- Addressing the letter to a certain Ministry without indicating the Permanent Secretary, may be an obstacle to receiving fast feedback from the Ministry

TANGO

PHONE: +255 xxx xxx xxx
(Region)xxxxx, TANZANIA.

Name of the Person responsible in the organization (Mr.xxxxxx xxxx)
Position in the organization (xxxxxxx)

Appendix 1: Taxation for Nonprofit Organizations in Tanzania – A guide for Civil Organizations in Tanzania



TANZANIA REVENUE AUTHORITY

ISO 9001: 2015 CERTIFIED

TAXATION FOR NONPROFIT ORGANISATIONS IN TANZANIA

A guide for Civil Society Organizations

Second Revised Edition 2024



TAXATION FOR NONPROFIT ORGANISATIONS IN TANZANIA

A guide for Civil Society Organizations

Second Revised Edition 2024

● Partners



SECTOR TAXATION IN TANZANIA

A SIDE EVENT DURING THE 23 NGOS FOR DODOMA



Launching of the report on “The State of Non-Profit Taxation in Tanzania” during the Workshop on Non-Profit Sector Taxation and Validation of the Second Revised Edition 2024 of the CSOs Tax Compliance Tool Kit in Tanzania held at Morena Hotel, Dodoma on 3rd October 2023. In the picture is Mr. William Mhoja- Commissioner of Financial Analysis at the Ministry of Finance; Hon. Mwantum Mahiza-NGO Board Chair; Dr. Lilian Badi-NaCoNGO Chair; Madam Vicknes Mayao-NGO Registrar and Adv. Onesmo Olengurumwa-THRDC National Coordinator.

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Acknowledgement

This is the second revised edition 2023/2024 of the CSOs Tax Tool Kit 2024. The idea of preparing and publishing the first Tool Kit was brought up during Civil Society Organizations' Directors Reflection Meeting in Mwanza in 2019. This proposal was well received by the Tanzania Revenue Authority (TRA) and CSOs across the country. The first edition of this Tool Kit was developed in 2021. For the purpose of updating this Tool Kit with annual reforms related to finance and tax laws, TRA and THRDC agreed to review and update the Tool Kit annually. This second edition was validated by 200 representatives of CSOs on 3rd October, 2023 at Morena Hotel in Dodoma. The validation session was conducted as one of the side events during the 2023 Annual NGOs forum in Dodoma.

The process of updating this Tool Kit enjoyed wider consultations of about 1500 Non-Profit Organizations across the country who have been approached for their views 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 their valuable contributions. We also appreciate and recognize the leadership and close cooperation accorded to this work by Chairperson of NGOs Board, Ms Mwamtum Mahiza, Ag. Director of Taxpayer Education and Communication at TRA, Mr Hudson Kamoga, Registrar of NGOs, Ms Vickness Mayao and Chairperson of NACONGO, Dr Lilian Badi.



Specifically, we would like to thank all organizations that participated in the process of developing this document under the leadership of the Tanzania Human Rights Defenders Coalition (THRDC). These organizations among others include the National Council of NGOs (NACoNGO), Wajibu Institute of Public Accountability (WIPA) and financial contribution by the UK Aid funded Accountability in Tanzania Programme (AcT2), Ford Foundation, European Union, and Sweden.

We would also like to thank members of the technical team from TRA and THRDC who devoted much of their time and expertise to develop and come up with this revised edition of the CSOs Tool Kit. The technical team involved (Mr. Maternus Emily Mallya (Principal Tax Management Officer), Adv. Octavian Kichenje (Legal Counsel), Ms. Kanasia Malisa (Principal Economist and Mr. Joram Katemana (Tax Management Officer) all from TRA. Other team members included Adv. Onesmo Kasale Olengurumwa - Certified Tax Consultant from Afritanza Attorneys and National Coordinator THRDC and Adv. Paul Kisabo, Protection and Litigation Officer from THRDC. It is our belief that this second version will be useful to the Non-Profit sector given the current tax compliance challenges facing CSOs in Tanzania.

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 acts as a supplement information directs readers to supplementary information from TRA website, Tax Consultation Bureau (DSM), and Regional Taxpayers Education and Communication Officers of TRA found countrywide. delete in different parts of the country.

NB: *This toolkit does not substitute any Tax Laws or procedure. The tax laws shall prevail in case of any inadvertent conflict.*



TIN application

A Director of a **Non-Profit Organization** is required to apply for **TIN** immediately after obtaining certificate of organizational registration from relevant authorities



1. Defining a Nonprofit Organisation

The term nonprofit covers different types of Civil Society Organizations (CSOs) including Non-Governmental Organisations (NGOs), Charitable Organisations, 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, if any 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 Non-Governmental Organisations 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 organizations, like other taxpayers, have a duty 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 "Client Service Charter" accessible

► *at: <https://www.tra.go.tz/IMAGES/uploads/Laws/Nineth ClientServiceCharter nRevised.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, Cap.438 R. E. 2019].

Procedure for registration

An organization can obtain TIN by making an application through Taxpayer Portal. (Tax Administration Act R. E 2019 S. 22 & S. 82)

Upon TIN registration the following information is required;

- a) Organization's Certificate of Registration,
- b) Constitution of the respective organization



- c) 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)
- d) An introduction letter from Ward Executive Officer (WEO).
- e) A lease agreement and/or Title Deed/Residence License 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 only if;

- a) the turnover (out of taxable supplies but not from grants and donations) is equal to or greater than the registration threshold of 100 million in the period of six months or 200 million in the period of twelve months (Refer Sections 28 & 29 of VAT Act Cap 148, and Section 90 of TAA 2015 R.E 2019). This is for only those NPOs that are involved in investments and other business-related activities.
- b) the organisation offers professional/consultancy services (Section. 29 of VAT Act Cap 148) e.g. consultancy, training etc.
- c) 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.

Note: Non-Profit Organizations are not automatically required to register for VAT because they only receive grants for community services. However, if an organization is involved in investments and business activities, such organization is required to comply with VAT laws (Refer Sections 28 & 29 of VAT Act Cap 148, and Section 90 of TAA 2015 R.E 2019)

2.1.3 Acquire and Usage of Electronic Fiscal Devices (EFDs)

A nonprofit organization that conducts any economic activity and has a turnover of TZS 11 million and above is required to issue a fiscal receipt. Non-profit organisations are also required to issue and demand a fiscal receipt for every transaction made. (Refer Sec. 36 and 86 of TAA , 2015).

2.1.4 Timely Payment of Taxes

Every Taxpayer has a duty to pay tax promptly as and when they fall due, and failure to comply with such an obligation result to interest, penalty and fine (as provided for under 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 under part 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 part 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 the law. Currently, tax returns are required to be filed electronically for convenience purposes. (Refer Sec. 37 to 41 of TAA, 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 General 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.

- A taxpayer shall register into the system by using his/her respective TIN, Email, and Address details on the TRA website: <http://www.tra.go.tz> and then click Taxpayer Portal Online Services.

Failure to submit returns

- **Section 78** (1) and (2) of Tax Administration Act, 2015 prescribes monthly penalty for failure to file tax return.

Note: Nonprofit organizations operate in a very dynamic and unpredictable funding environment. Those newly registered NPOs and those that operate without funds are advised to regularly inform the Commissioner through District and Regional TRA offices in their localities.

2.1.6 Record Keeping

An organization is required to keep all business records relating to tax matters for a period of five years from the relevant date or for a further period as prescribed for under tax laws”; or until a final decision is made on the documents in case of dispute resolutions. Refer Section 89(1) of the VAT Act, 2014 read with Section 35(3) of the Tax Administration Act, 2015.

2.1.7 Notification of Change of Particulars

Organisations are required to notify the Commissioner General of any change of particulars of the organization such as office location, contact numbers, amendments to constitutive documents etc. In case of any change of the organization's particulars, it is advisable to inform the nearest TRA office.

2.1.8 Full Disclosure of all business activities

Organisations have an obligation to disclose to the Commissioner General all matters relating to business activities conducted by the respective organisations.

NOTE: *NPOs are advised to make effective use of the TRA Online Service in complying with tax laws through Taxpayer Portal. This platform is available on TRA Website and it is accessible by every registered taxpayer.*

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.



Part 3 of this guide provides details of circumstances for eligibility and procedures for obtaining exemptions/relief under the different tax laws as appropriate.

Nonprofit organisations can also make an application for Commissioner General's 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 part 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 the Commissioner General to the extent that, such a right is provided for under the tax laws (Refer Section 50 up to 53 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 Fiscal Receipts

When an Organisation makes an error on issuance of a fiscal receipt, it should report in writing to the nearest TRA office for rectification and maintain a copy for future reference.



A group photo with the guest of honour Mr. Richard Kayombo the Director for Taxpayer Education and Communication at TRA during the validation of the first edition of the Non-Governmental Organisations Compliance Toolkit on 1st July 2021 at Mlimani City, Dar es Salaam, Tanzania.

3. Payment of Taxes

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

3.1 Common Taxes Payable by Non Profit Organisations

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

3.1.1 Tax Revenue Obligations

Type of Taxes	Additional Information
Income Tax <ul style="list-style-type: none">• Corporate Tax	Annex 2
<ul style="list-style-type: none">• Different types of withholding taxes Service fees and contract payments Payments of investment returns (Such as rent, interest, and royalties).	-
<ul style="list-style-type: none">• Capital Gain Tax (CGT)	-
<ul style="list-style-type: none">• Pay as you earn (PAYE)	Annex 4
Skills Development Levy (SDL)	-
Stamp Duty	-
Import Duties	-

3.1.1.1 Corporate Tax

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

The applicable rate of corporate tax for nonprofit organizations is 30% on annual taxable income.

Event	Details of Due Dates
Filing of Statements of Estimated Tax Payable (SOETP)	<p>Payments are made in calendar year quarterly instalments over the year of income as stipulated under Section 88 of Income Tax Act Cap 332.</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 <ul style="list-style-type: none">• Under Section 89 of ITA Cap 332 organisations are required to file estimates 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.• The filed estimates 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.• Details of SOETP are accessed through the TRA Taxpayer portal at https://taxpayerportal.tra.go.tz/#/



Filing of Return of Income (ROI)	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 Chargeable	Failure to submit tax returns on due dates and pay tax, if any, will attract penalty/ fine and interest accordingly under Section 76 and 78 of the TAA of 2015.

NOTE: *We understand that NGOs are not intended for profit making purposes like commercial companies. Their income depends mainly on donor funds and contributions, except those engaging in business or investment that generate income.*

NPOs are advised to observe the following:

- (i) In case of Filing of Statements of Estimated Tax Payable (SETP) as per Section 89 of ITA, NPOs may file NIL return for the year of income to avoid penalty.
- (ii) In case of Annual Return of income (ROI) as per section 91(1) of ITA, non-for-profit organizations with more than one-year grants in their accounts (grants collected or remained for next year activities) are advised to apply to the Commissioner for their unutilized income to be treated as SURPLUS for completion of their pending projects in the next year of income, in terms of S.64 of the Income Tax Act. In this context, NPOs are advised to use well experienced external financial auditors who are more knowledgeable about Taxation of the Non-Profit sector.

3.1.1.2 Withholding Taxes

(a) Withholding Tax on Payments of Professional Services Fees and Contracts

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 persons.

- “professional service” means services rendered by a person licensed as a practitioner by any recognised professional body and shall include other services or activities of an independent business character including consultancy, legal, architectural, engineering, supervisory, accounting, auditing, medical, artistic, survey, theatrical performance, sports, exhibition, private security services, private investigation and consultancies in various disciplines or any entertainment held or given other than those for remuneration under contract of employment: Provided that, where the service involves construction works, the payment which is subject to withholding shall be based on the ratio of 3:2 for materials and services respectively (service element is 40% of the payments).
- 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 contractors/service providers for any payments made in respect of services rendered to the organisation.



- *NOTE: Where the turnover of such contractor or service provider is less than 11 million, the organisation may ask for being issued with manual receipt.*

Event	Details of Due Dates
Payment and issuance of withholding certificate	<p>Every withholding agent shall pay to the Commissioner General within seven days after the end of each calendar month any income tax that has been withheld during the month.</p> <p>A withholding agent shall prepare and serve the withholder a Withholding Certificate setting out the amount of payments made to the withholder and income tax withheld from such payments.</p> <p>The procedure of generating control numbers for withholding tax on other services is accessed through the TRA Taxpayer portal at https://taxpayerportal.tra.go.tz/#/</p>
Filing of Return	Monthly returns are submitted through the TRA e-filing system on or before the 7 th day of the month following the month of withholding.
Penalty/ Fine/Interest chargeable	Failure to submit tax returns on due dates and pay tax, if any, will attract penalty / fine and interest accordingly under Section 76 and 78 of the TAA of 2015.

(b) Withholding Tax on Investment Returns

i. Withholding Tax on Payment of Rent

Nonprofit organisations renting office premises or other spaces for commercial purposes are required to withhold tax at the rate of 10% before making payment to landlords/managing agents (Refer Section 82 of the Income Tax Act Cap 332).

Upon payment of rent, the tenant must withhold the tax amount and remit it to the Commissioner General as stipulated under the provisions of Section 84 of the Income Tax Act Cap 332. Failure to remit the amount of tax withheld attracts an interest at the statutory rate which is compounded monthly and payable to the Commissioner General under section 76 of the Tax Administration Act Cap 438.

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.

ii. Withholding Tax on Payment of Interest

Upon payment of interest in respect of money borrowed from non-financial institutions or from non-resident lenders, nonprofit organisations are required to withhold tax at the rate of 10%. (Refer Section 82 of the Income Tax Act Cap 332).

Upon payment of interest, the organisation must withhold the tax amount and remit it to the Commissioner General as stipulated under the provisions of Section 84 of the Income Tax Act Cap



332. Failure to remit the amount of tax withheld attracts an interest at the statutory rate which is compounded monthly and payable to the Commissioner General under section 76 of the Tax Administration Act Cap 438.

iii. Withholding Tax on Payment of Royalties

Upon payment of royalties in respect of the use of intellectual property rights, nonprofit organisations are required to withhold tax at the rate of 10%. (Refer Section 82 of the Income Tax Act Cap 332).

Upon payment of royalties, the organisation must withhold the tax amount and remit it to the Commissioner General as stipulated under the provisions of Section 84 of the Income Tax Act Cap 332. Failure to remit the amount of tax withheld attracts an interest at the statutory rate which is compounded monthly and payable to the Commissioner General under section 76 of the Tax Administration Act Cap 438.

3.1.1.3 Capital Gain Tax (CGT)

When an organization derives a gain from the realization of an interest in land or buildings situated in Tanzania shall pay income tax by way of single instalment equal to (a) in case of a resident organisation is 10% and (b) 20% in case of a non-resident organisation, before the title to such interest in land or building is transferred into the name of the buyer (Refer Section 90 of the Income Tax Act Cap 332).

Failure to pay capital gain tax on due date attracts an interest at the statutory rate which is compounded monthly and payable to the Commissioner General under section 76 of the Tax Administration Act Cap 438.

3.1.1.4 Pay As You Earn (PAYE)

Employees whether full time, part time staff, temporary/casual, interns and volunteers) under non-profit organisations are subject to remittance of PAYE as long as remunerations to their respective employees exceed the prescribed minimum taxable salary threshold (refer Annex 4 for a worked out example).

Event	Details
Remuneration of employees	A non-profit organisation, as an employer who makes payment of salaries, allowances, gratuity, etc to employees shall withhold income tax (PAYE) from the payments made to such employees at the rate provided for under paragraph 1 to the First schedule of the Income Tax Act Cap 332.
Determination of taxable employment income	<ul style="list-style-type: none">• 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 the Income Tax Act Cap 332).• Non-profit organizations are responsible to withhold PAYE and remit the same to the Commissioner General within seven days after the end of each calendar month (Section 81 and 84 of the Income Tax Act Cap 332).• Debit and control number for payment of PAYE are generated through the TRA Taxpayer portal accessible through https://taxpayerportal.tra.go.tz/#/

Filing of Return	Monthly returns are submitted through the TRA e-filing system within seven days after the end of each calendar month.
Penalty/Fine/Interest	Failure to submit tax returns on due dates and pay tax, if any, will attract penalty / fine and interest accordingly under Section 76 and 78 of the Tax Administration Act Cap 438

3.1.1.5 Skills Development Levy (SDL)

SDL is charged under section 14 of the Vocational Education Training Act (VETA) Cap 82 and collected by the Commissioner General of TRA from gross emoluments payable by employers with ten (10) or more employees in the payroll month.

The levy chargeable is equal to 3.5% of the total gross monthly emoluments payable by a non-profit organisation to all employees in respect of that month for Tanzania Mainland and 4% for Zanzibar.

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 and entertainment allowance or other allowances paid to him by the employer in respect of his employment or service rendered, and any amount so paid in respect of employment or services rendered by the employee in any month, shall be deemed to be emoluments in respect of the calendar month in which it is paid.

NOTE: Organizations eligibility is determined on monthly 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.

Event	Details
Determination and payment of monthly SDL payable	<p>SDL is charged based on the gross emoluments of all payments made by the employer to the employees in the calendar month.</p> <p>Employer shall pay to the Commissioner General within seven days after the end of each calendar month.</p> <p>Debit and control number for payment of SDL are generated through the TRA Taxpayer portal accessible through https://taxpayerportal.tra.go.tz/#/</p>
Filing of Return	Monthly returns are submitted through the TRA e-filing system within seven days after the end of each calendar month.
Penalty/Fine/Interest	Failure to submit tax returns on due dates and pay tax, if any, will attract penalty/fine and interest accordingly under Section 76 and 78 of the Tax Administration Act Cap 438

3.1.1.6 Stamp Duty

Payment of Stamp Duty is guided by the Stamp Duty Act Cap. 189. 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. Different instruments are chargeable with different rates of stamp duty under the Stamp Duty Act Cap 189.

For a chargeable instrument to be admitted as evidence before the court of law must be duly stamped as provided for under Section 47 (1) of the Stamp Duty Act under otherwise such a chargeable instrument will be inadmissible. In case of 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.

The most common instruments for nonprofit organisations include:

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

Due date and persons liable to pay stamp duty	<ul style="list-style-type: none"> • 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. • 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, the stamp duty may be paid by either drawer, maker or executor depending on the nature of an instrument
Offenses Penalty/Fines	Covered under Sections 73, 74, 75 and 76 of Stamp Duty Act and Section 91 of the Tax Administration Act Cap 438.

3.1.1.7 Import Duty and Value Added Tax Exemptions

A nongovernmental organization may apply for exemption of VAT to Commissioner General in a prescribed form on importation or supply of goods or services to be used solely for project implemented by respective nongovernmental organization provided such a nongovernmental organization has an agreement with government of Tanzania for the project to be implemented. Such agreement should provide that VAT on such importation or supply of goods or services is exempted as provided for under section 6(2)(g) of Value Added Tax Act Cap 148, read together with amendment of the same under section 74 (a) of the Finance Act, 2021.

A nongovernmental organization may also enjoy exemption of VAT on importation of goods listed under items 7, 8, 9, 10 and 12 of Part I of the schedule to the Value Added Tax Act, 2014. Such exemptions refer to the importation and local supplies of medicine or pharmaceutical products, articles designed for people with special needs, education materials, health care and education services.

Further a nongovernmental organization may also enjoy exemption of VAT on importation of goods listed under items 6, 7, and 8 of Part II of the schedule to the Value Added Tax Act, 2014. Such exemptions refer to the imported goods such as 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 50% of the fair market value.

An organisation that is eligible for exemption is required to make an application for exemption in writing to the Commissioner General before imported goods are cleared through the customs.

The application must be supported with the following document:

- a) An application letter by the head of the organisation or the one acting on behalf.
- b) An introduction letter from District Commissioner (DC) where the project is implemented.
- c) An introduction letter from a Ward Executive Officer (WEO) where the project is implemented.
- d) 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)

- e) TIN Certificate
- f) Commercial documents for imported goods (i.e. invoice, bill of lading, packing list)
- g) Organization's annual procurement plan
- h) Organizations utilization report accounting for the remission granted during the previous year (if any)
- i) Donation certificate in case of donated goods
- j) Distribution plan on the imported goods (especially when imported goods are in a form of general merchandise)
- k) Any other relevant information to support the application.

NOTE

1. *Under Section 2 of the Value Added Tax Act Cap 148 a nonprofit organization means a Religious or Charitable organisation established and functions solely for (a) the relief of poverty or distress of the public, (b) the provision of general public health, education or water; and (c) the supply of religious services.*
2. *In whatever circumstances there is no exemption on excise duty. Accordingly, therefore when a nongovernmental organization imports aged motor vehicles (more than 8 years for private cars of carrying capacity not more than 10 passengers and those aged more than 5 years for public motor vehicles of carrying capacity of more than 10 passengers from the date of manufacture); will be required to pay excise duty as provided for under the provisions of the Excise (Management and Tariff) Act, Cap.147 R.E 2019.*



3.2 Important Points

3.2.1 Timely Submission of Applications

Most organisations eligible for exemptions do not submit applications on time. Organisations are advised to send the application as early as possible to have the ruling made before arrival of the goods to avoid storage and demurrage charges unless the request is related to emergency interventions.

3.2.2 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 East African Community Customs Management Act, 2004.

3.2.3 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).

Steps to Verify **EFD/VFD** Machines

1. Go to **www.tra.go.tz**
2. Click on **Taxpayer portal**
3. Click on **Service**
4. Click on **EFD and VFD error management services**
5. Click on **My Device**
6. Check the correctness of the information on the **EFD/VFD** machine
7. Report early to **TRA** office if there is a discrepancy of information to the **EFD/VFD** machine



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, 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

The Finance Act, 2021

The finance Act, 2023

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



BI- ANNUAL CIVIL SOCIETIES AND TANZANIA REVENUE AUTHORITY (TRA) MEETING ON **TAXPAYER** EDUCATION

30th June 2023 | 10:00 AM to 12:00 PM
Umoja Hall, Sumbawage

From left, Mr. Edmund Kawamala-Deputy Commissioner for Small Taxpayers Domestic Department (TRA); Hon. Mwantum Mahiza -National NGO Board Chair; Adv. Onesmo Olungurumwa-THRDC National Coordinator; Mr. John Deogratius -NGO Registrar Kinondoni District during the Bi-Annual CSOs and TRA Meeting on Taxpayer Education on 30th June, 2023

Annex 2 Taxation of Charitable Organisations

A. Qualifying for Charitable Status

A non-profit organization may qualify to be a charitable organization under two circumstances:

- i. Where the organisation is a resident entity of a public character established and functions solely as an organisation for the following
 - a) the relief of poverty or distress of the public,
 - b) the advancement of education; or
 - c) the provision of general public health, education, water or road construction or maintenance.
- ii. Where the organisation is a resident entity of a public character that has been issued with a ruling by the Commissioner General as provided for under the provision of section 11 of the Tax Administration Act 2015, stating that it is a charitable organisation.

B. Application Procedures and Qualifying Criteria

The application for a ruling is done by writing an application letter to the Commissioner General using form no ITX 902.01 E.

The application should also be attached with the following documents;

- Registration Certificate of the Organisation.
- Introduction letter from the District Commissioner, indicating 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

C. Computation of Taxable Income of a Charitable Organisation

The modality of taxation on the income generated by a charitable organisation is provided for under the provisions of 64 of the Income Tax Act 2004. The same taxation modality applies for religious organisations.

The table below illustrates the computation.

Take any income generated by the charitable/religious organisation during the year of income	xxxx
Add: All gifts and donations received by the same during the year	
Total Gross Income earned	
Less: 25% of the Gross earned income	
All expenditures applied pursuit of the functions falling under the definition of a charitable organisation	
The charitable /religious organization's savings approved by the Commissioner General to finance further charitable projects if any	
Taxable income of a charitable /religious organisation	

D. Ring Fencing of the Losses Incurred by the Charitable Organisation.

- i. Losses incurred by a charitable organisation from the charitable business may only be offset against income earned from such charitable business. Any loss incurred from charitable business is not allowed to be offset against income earned from any other business.
- ii. Losses incurred by charitable organisation from any other business may only be offset against income earned from such any other business. Any loss incurred from any other business is not allowed to be offset against the income earned from the charitable business.

E. Repercussions of Ceasing to be a Charitable Organisation.

When an organisation ceases to be a charitable organisation the following happens:

- i. The organisation shall immediately be treated as conducting a business other than its previous charitable business.
- ii. The 25% of gross income which was claimed to be deductible by the charitable organisation in compliance with section 64(1)(b)(ii) of the Income Tax Act 2004 will immediately be disallowed when calculating the taxable income over the year of income of such organisation ceased to be a charitable organisation.

Note: Definition of Terms

- i. An entity of public character means an entity established and functions solely for a public purpose and which operates in such a way that:

- (a) its membership is open to the general public or an identifiable group of a community with common interests.
 - (b) it operates for purposes other than deriving profit or gain.
 - (c) it does not allow any distribution or deemed distribution of profit generated out of its charitable business; and
 - (d) its profit is ploughed back and used solely for improving or expansion of the original charitable purposes or function.
- ii. Commissioner General's Ruling refers to a legally binding pronouncement issued by the Commissioner General in response to a written application made by a person or class of persons for recognition and approval of status of an established organisation in respect of tax laws.
- iii. Religious organisation means a resident entity of a public character established for the advancement of religion and issued with ruling by the Commissioner General under section 11 of the Tax Administration Act 2015 stating that it is a religious organisation.
- iv. Resident entity means an entity which (a) it is incorporated or formed under the laws of the United Republic of Tanzania (b) the entities management and control of affairs are exercised in the United Republic of Tanzania at any time during the year of income.

F. Worked Examples on Computations of Taxable Income of a Charitable Organisation

Worked Example 01:

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 nonprofit organisation 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 corporate tax	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 02

M/s Trust is a charitable Organisation providing charitable services in Tanzania. During the 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 25% 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 General to be allowed to save TZS 8,750,000 to be applied towards its functions in the year 2019. The Commissioner General allowed saving of the amount. The balance of TZS 6,250,000 which is TZS 25,000,000 less TZS 18,750,000 (TZS 10,000,000+8,750,000) was not taxed.

However, 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 the year 2019.

TRANSACTION PARTICULARS	AMOUNT
Business income for year 2019	16,000,000
Surplus amount in year 2018	6,250,000
Unspent amount in 2018	8,750,000
Total income for the year 2019	31,000,000
Less: 25% of the Gross earned income (25% of TZS 25,000,000)	6,250,000
Taxable income for the year 2019	24,750,000





Launching of the Tax Compliance Toolkit for NGOs. From right is Mr. Richard Kayombo-Director of Taxpayer Education and Communication from TRA, Ms. Feliciana Nkane-Deputy Commissioner Tax Investigation, Mr. Onesmo Olungurumwa-THRDC National Coordinator, and Mr. Jackson Mmari from Wajibu Institute. The Toolkit was launched on 24 September 2021 at THRDC Headquarters, Dar es Salaam.

Annex 3: Tax Audit and Disputes Resolution Mechanisms

Tax Audit is conducted by the TRA to review the compliance status of the Organization. The Tax Audit may extend up to three years or more. Taxpayers have an obligation to maintain their documents for audit purposes for a period not below five years.

TRA audits process/Flow of events



Relevant Documents to Prepare after Receiving an Audit Notification.

Tax liabilities may arise due to lack of sufficient information on the taxpayer to support her claims such as expenditure and other allowable deductions. In the absence of supporting documents, TRA auditors are likely to decline some expenses and other allowable deductions resulting into a tax liability. Therefore, NGOs are advised to ensure that they provide sufficient information and/or documents supporting their claims in the course of audit.

The following are some of the important documents that may be required:

- Financial statements
- Projects contracts/Agreements
- General ledgers
- Tax returns
- Bank statements respective schedules Proofs of payment.
- Lease agreements
- Any other relevant information/documents

Responding Audit Findings and Lodging Objections

Failure to respond to audit findings or lodge objection within the prescribed time may have adverse consequences on the taxpayer. Once audit findings have been issued to a taxpayer, the taxpayer is obliged to respond to the same by replying to every tax claim raised by auditors, with supporting evidence. The Commissioner shall evaluate the response & supporting evidence and issue Notice of assessment/tax liability. The taxpayer after receiving notice of tax liability, if aggrieved, is supposed to lodge an objection

with or without an application for waiver. In doing so, the taxpayer must observe statutory timelines. Taxpayer has a right to request for extension of time to file his response to audit findings or to lodge an objection, as the case may be.

- i. A taxpayer is required to respond to audit/examination findings within fourteen (14) days from the day of receiving the findings.
- ii. A taxpayer may be given an extension of time (not exceeding fourteen (14) days) to respond to the findings, upon giving reasonable grounds for extension.
- iii. The Commissioner may grant extension of time upon request by the taxpayer who has reasonable ground(s) to warrant extension of time to file an objection against a tax decision.
- iv. In case of objections, the taxpayer is supposed to lodge the same within 30 days from the date of receiving notice of assessment. The taxpayer may request the extension of time.
- v. The taxpayer is supposed to pay one third ($\frac{1}{3}$) of the tax liability or undisputed amount whichever is greater.
- vi. The taxpayer may request for a waiver of this requirement or to pay any lesser amount.

Note that if paragraph (v) and (vi) above are not complied with, the objection lodged shall not be admitted.



Stages for Dispute Resolution

1. Filing an Objection to the Commissioner General

A person aggrieved by the assessments issued, may file an objection to the Commissioner General within 30 days. The objection should be in writing stating the grounds upon which it is made. (TAA S. 51)

The Commissioner shall determine an objection within six months and issue final assessment. In case the Commissioner fails to determine the objection within six months, the assessment will be confirmed by operation of law.

2. Appeals to the Tax Revenue Appeals Board

In case the taxpayer is aggrieved by determination of objection, or confirmation by operation of law, the taxpayer may appeal to the Tax Revenue Appeals Board ("TRAB") within 30 days. The appeal should be in writing stating the grounds upon which it is made. (TAA S. 53) and S.16 of Tax Revenue Appeals Act (TRAA)

3. Appeals to the Tax Revenue Appeals Tribunal

Where the taxpayer is aggrieved by the decision of TRAB, he may appeal to the Tax Revenue Appeals Tribunal (TRAT).

4. Appeals to the Court of Appeal

A taxpayer who is not satisfied with the decision of TRAT, may appeal further to the Court of Appeal of Tanzania (CAT).

Note that in preferring appeals, the taxpayer MUST observe the prescribed timelines.

Summary of Important timelines

Step	Event	What taxpayers should do?	Timelines
Step 1	TRA issues an assessment	<ul style="list-style-type: none"> If in agreement with the TRA's position, the taxpayer should pay as per the assessment. If not in agreement, proceed to step 2. 	<ul style="list-style-type: none"> Within 30 days from the date of service of the assessment.
Step 2	Lodging the notice of objection	<ul style="list-style-type: none"> Request (if have reasonable justification) for waiver of one third of the tax assessed or payment of the lesser amount. Pay amount not in dispute or one third of the tax assessed, whichever is higher. Lodge notice of objection to the Commissioner General. 	<ul style="list-style-type: none"> Within 15 days before expiration of the time to lodge the objection. Within 30 days from the date of service of the tax assessment.
Step 3	Determination of objection	<ul style="list-style-type: none"> If an objection is not determined in stated timeline, taxpayer should appeal to TRAB as the assessment is considered confirmed. Taxpayer to respond to TRA proposal relating to lodged objection. 	<ul style="list-style-type: none"> Within 6 months after admission of objection. Within 30 days from receipt of the proposal.



Step 4	Appeal to Tax Revenue Appeals Board (TRAB)	<ul style="list-style-type: none"> • Appealing to the TRAB by submitting to TRAB a notice of intention to appeal. • File statement of appeal with TRAB and send copy to the TRA. 	<ul style="list-style-type: none"> • Within 30 days from the date of the final tax decision. • Within 45 days from date of service of the final tax decision (i.e., 15 days after filing notice of intention to appeal)
Step 5	Appealing to Tax Revenue Appeals Tribunal (TRAT)	<ul style="list-style-type: none"> • Appealing to TRAT by filing a notice of intention to appeal with TRAT. • File statement of appeal with TRAT. 	<ul style="list-style-type: none"> • Within 15 days from the date of the board's decision. • Within 30 days from the date of service of the decision and proceedings of the Board in respect of which one intends to appeal.
Step 6	Appealing to Court of Appeal of Tanzania (CAT).	<ul style="list-style-type: none"> • Appealing to CAT by filing a notice of intention to appeal with TRAT. 	<ul style="list-style-type: none"> • Within 14 days after the appealable decision of the Tribunal

Alternative Disputes Resolution Negotiations with the TRA in case of Disagreements?

Yes, there are possibilities to do negotiations which is done through the third party by way of mediation.

- **Mediation:** a third party is involved to get the TRA and taxpayers to agree where it is no longer possible for them to reach an agreement on their own (potential role of tax ombudsman). This procedure can be involved where a complaint relates to services delivery, procedure or administrative matter arising in the course of administering tax law by TRA, the Commissioner or staff. It does not concern matters of legislation or tax policy or matters that are subject to tax objection or appeal.
- **Settlement:** The TRAA allows parties to an appeal to enter into an amicable settlement concerning their dispute at any stage when an appeal is pending before TRAB or TRAT. The settlement if successful is adopted and pronounced as a decision of TRAB or TRAT as the case may be.

NOTE: NPOs are encouraged to have tax consultants or trained lawyers to assist them on regular basis on issues related to tax compliance,

Tax Ombudsman duties includes:

- 1 To review complaints and resolve the same through mediation or reconciliation where necessary.
- 2 To act independently and impartially when reviewing
- 3 To use informal, fair and cost-effective procedures in resolving complaints.



4

To provide taxpayer's education on Tax Ombudsman functions and procedures for making complaints.

5

To facilitate access to taxpayers on dispute resolution processes within the TRA; and

6

To identify and review tax administrative issues related to customer services or procedures with negative impact on taxpayers.

While performing his duties, the tax ombudsman will be subjected to some limitations and shall not review the following.

1

Legislation or tax policy.

2

TRA's policy or practice unless it relates to service, administrative or procedural matter that relates to administration of tax laws.

3

A matter subject to objection or appeal save for an administrative matter relating to such tax objection or appeal.

TANZANIA HUMAN RIGHTS DEFENDERS COALITION



WISDOM KWA ALIASI
ZA HUKUMIA NCHINI
TANZANIA

Human Rights
Efficiently engage
and promoting
a safe working



Annex 4 Worked Example - PAYE

Example of calculation of taxable income from employment – what to include. Read this case study together with section 72 (2) and (3) of the Income Tax Act Cap 332

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
• NSSF contributions	(TZS 2,160,000)
• Taxable salary	TZS 41,040,000

Add: taxable fringe benefits:

• 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
• Motor vehicles benefit	TZS 250,000

TOTAL ANNUAL INCOME	TZS 48,940,000
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Partners

