



Discussion Paper on Charitable Status of CSOs in Tanzania, March 2025.

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I.0 Introduction

1.1 Background and Context

Civil Society Organizations (CSOs) play a critical role in Tanzania's development landscape. They contribute to social, economic, and political development by providing essential services, advocating for human rights, promoting good governance, and fostering community empowerment. By and large, one would assume that all legally registered CSOs, assumes a charitable status. One of the critical enablers in ensuring their resilience and sustainability. However, the legal and regulatory environment governing CSOs access to charitable status, remain a subject of debate.

*By definition the **Charitable Status** refers to the legal recognition of an organization as a nonprofit entity that operates for the public benefit. In Tanzania, CSOs with charitable status are often exempt from certain taxes and enjoy other privileges, such as access to grants and donor funding. The status is typically granted to organizations whose activities align with specific charitable purposes, such as poverty alleviation, education, health, and environmental conservation.*

1.2 Purpose of the Discussion Paper

There is an assumption that CSOs are charitable entities due to their nature of work. CSOs are known to promote righteous causes to targeted groups in the community. Generally, CSOs focus is to improve quality of life for persons by promoting social, political and economic welfare of the community. It is further assumed that CSOs are charitable entities because, they are "not for profit entities". Unfortunately, according to Tanzania's Legal regime, this assumption is not correct. It is imperative to note that registration of a CSO with the respective authorities does not automatically grant such organization a charitable status from Income Tax perspective. It is critical that a CSO seeks a private ruling from the Tanzania Revenue Authority (TRA) Commissioner General for it to be recognized as a charitable organization from Income Tax perspective.

This paper discusses the charitable status of CSOs in Tanzania, focusing on the legal framework, benefits, challenges, and recommendations for improving the regulatory environment.

1.3 Methodology

This study employed both desk research by looking at the available literature on charitable status in Tanzania and one-to-one interview with the representatives of the organizations that have applied for charitable status and were not successful and those which applied successfully.

2.0 Legal Framework for Charitable Status in Tanzania

2.1 Current Law Governing Charitable Status in Tanzania

In Tanzania, the legal framework for charitable status is primarily governed by the Income Tax Act Cap. 332 and the Tax Administration Act Cap 438.

The Income tax Act sets the conditions under which an organization can be granted a Charitable Status. Section 64 (8) provides that, an organization may apply to the Commissioner General to be recognized as a charitable organization if it meets all of the following three conditions;

a) It is a resident entity of a public character

Note: An entity is of public character if it meets the following requirement; its membership is open to the general public or is having an identifiable group of persons with common interests, it operates without profit or gain motive, it does not distribute profits generated from its charitable business and its profits is ploughed back and used solely for improving or expansion of the original charitable function or purposes. **(s.3 of the Income Tax Act).**

b) It is established and functions solely as an organization for:

- i. The relief of poverty or distress of the public
- ii. Environmental protection
- iii. The advancement of education or health
- iv. The provision of general public health, education, water or road construction or maintenance.

c) It has been issued with a ruling by the Commissioner under section 11 of the Tax Administration Act stating that it is a charitable organization.

It should be noted that, all these three conditions must be fulfilled for an organization to be recognized as a Charitable Organization. That is to say, apart from its charitable functions (referred in (b) above), an organization must apply for a ruling of the Commissioner-General that will confirm the organization to have a charitable status. This means a CSO which is in need of tax treatment, as a 'charitable organization' should meet the conditions in (b) above and make an application for charitable status ruling, to the Commissioner-General of TRA.

Application for a charitable status must be accompanied by all shreds of evidence proving that the organization conducts charitable business including its Constitution, financial statements, previous projects reports, and all previous income records.

2.2 Benefits of obtaining Charitable Status

Benefits that a CSOs recognized as a charitable organization for tax purpose can get are;

a) Wide net of deductions

It should be noted that the funds received by CSO through donation or gifts are considered as its income. From the generated income (funds received through donation or gifts) the following will be deducted in calculating the income to charge tax:

- i. All the amount spent in pursuit of the charitable objective. Once a CSO has acquired a charitable status, it will be entitled to deduction of all amounts applied in the pursuit of its charitable activities to the public. That is to say, in the calculation of an CSO's taxable income, all income that was used by the CSO exclusively in the pursuit of its charitable activities (i.e the relief of poverty or distress of the public; the protection environment, the advancement of education or health; the provision of general public health, education, water or road construction or maintenance) shall be deducted.
- ii. Twenty five percent (25%) of the organization's income from its charitable business (funds received through donation or gifts) is deductible prior to deduction of the amounts in pursuit of its functions and any investment **(as per Section 64(2)(b)(ii) of the Income Tax Act).** Therefore, one can simply say

that if a CSO uses 75 percent of its income in the pursuit of its activities for benefit of the public, its income may not be taxable at all.

Note: Incidentally, even if there is no taxable income; this does not negate the requirement to file an income tax return. In particular, whilst for an individual there is no filing obligation if there is no taxable income, for an entity the obligation applies whether or not there is taxable income. Failure by an entity to file an income tax return will automatically result in a late filing penalty (calculated at a monthly rate of TZS 225,000). In other words, CSOs should remember to file the returns even if no tax is payable!

b) Saving of funds for future projects

Where an organization wishes to save funds for a charitable project, it may apply for approval of the Commissioner General for the funds to be deductible for tax purposes during the year of income. The project you intend to save for must be detailed and in line with the allowed objectives, and it must provide reasonable benefits to residents. **(s.64 (7) of the Income Tax Act).**

c) Exemption to pay SDL

Furthermore, a charitable organization is relieved from paying the skills and development levy **(as per s.19 (1) (f) of Vocational Education and Training Act Cap. 82).**

d) Exemption from Capital Gain Tax, VAT and Customs Duty Tax

- i. Disposal of investment assets is exempt from capital gain tax, provided that the gain is used for reinvestment in a new investment asset. For example, where a CSO decides to sell its property and apply the proceeds to buy or invest into other property for furtherance of its Charitable functions, the proceeds will not be subject to capital gain tax provided also that the disposed asset was used to generate funds for the charity work.
- ii. VAT will be exempted on goods and services for specific projects (subject to limitation under the law) especially for imports for certain humanitarian and disaster relief (The VAT Act, 2019 Exemption Schedule Part II). Foreign grants are also not subject to VAT provided that they are used to further charitable functions.
- iii. Customs Duty will be exempted on imported goods intended for charitable purposes. However, it should be noted that for the CSO to benefit from this exemption, it needs to apply to TRA when importing the goods. It is not an automatic benefit even if a CSO is recognized as a Charitable Organization. To claim an exemption from the customs duty, a CSO must send an application to the Tanzania Revenue Authority with the following attachments:
 - Letter from the head of the organization applying for duty and tax remission or on his/her absence the person acting on behalf of the organization substantiating the ownership of the goods;
 - Copy of the registration certificate(s) of the applying organization;
 - TIN Certificate
 - Letter from the District Commissioner substantiating the existence of the project in the respective District;
 - Letter from the Ward Executive Officer substantiating the existence of the project in the respective Ward;
 - Organization's annual procurement plan;
 - Organization's utilization report accounting for the remission granted during the previous year;
 - Copies of Bill of Lading/Air waybill/Road Consignment Note, Invoice, Packing List, List of beneficiaries, and donation certificate in case of donation;
 - Distribution plan on the imported goods (especially when imported goods are in a form of general merchandise) and
 - Any other relevant information to support the application.

Note: The customs duty will become due if the exempted goods are transferred, sold, or conveyed in any way to another person not entitled to the exemption

e) There are other general benefits/advantages for a CSO to be recognized as a Charitable Organization;

- i. Financial sustainability – access to tax exemptions reduces operational costs and expand impact.
- ii. Increased credibility – recognition by the government enhances trust among donors and beneficiaries.
- iii. Access to funding opportunities – many international donors prefer to fund tax-exempt organizations.
- iv. Public support – CSOs with charitable status fosters support and trust from the public because they are seen as committed to serving the community.

3.0 Application Process for Charitable Status

3.1 Requirements

If an entity meets the requirements as provided in s. 64(8) of the Income Tax Act, it can apply to the Commissioner General of TRA for a private ruling. Before the entity apply for the private ruling, it should have been in operation for at least three years. The Commissioner General needs to have the necessary information in order to make the decision. The entity should make sure that it has a clear tax record.

The application is carried out by filing **Form ITX 902.01E** in which the applicant should demonstrate how it has met the requirements for receiving charitable status. The application should also be attached with the following documents;

- i. Copy of Registration Certificate of the Organization.
- ii. Introduction letter from the District Commissioner, indicating the projects performed by the Organization in the area
- iii. Copy of Audited Financial statements for three previous years
- iv. Copy of the Organization's constructive document (Constitution/MEMARTS etc)
- v. Copy of the Organization's TIN Certificate
- vi. Copy of the previous project report
- vii. Copy of the dully stamped lease agreement and evidence of payment of withholding tax for rent (where applicable)

3.2 A matter of Practice

- i. For a matter of practice, an application for a private ruling to the Commissioner General to be recognized
- ii. as a charitable organization should be made to the Regional Manager at the regional office where the organization is registered. The Regional Manager will then recommend to the Commissioner General to issue the certificate for charitable status once he/she is satisfied that the organization have met all the legal requirements and conditions to be granted a charitable status. If all the requirements and conditions have not been met by the applying organization, the Regional Manager will recommend to the Commissioner General not to issue the certificate for charitable status. The application will then be denied.
- iii. It should be further noted that, being ruled as a Charitable Organization by the Commissioner General does not qualify an organization to any tax exemption or exemption to fulfill any submission obligations required by the tax law, but it rather gives different arrangement of calculating tax payable by such an organization.

4.0 Case Studies

During the study, several organizations which have applied for Charitable Status successfully and those which were not successful were interviewed to get their experiences of the process, benefits enjoyed (after been successful) and challenges encountered during the process.

4.1 Available Benefits and Experiences

Overall, the following benefits were registered by the organizations that applied successfully for charitable status:

- i. Ease Assessment of Tax - The organization have experienced easiness in preparing the financial statements because of the allowable deductions. Working with TRA in assessment of tax have been very easy because of the well-prepared self-assessments. This have helped them to smoothen their operations and relationships with TRA hence making them sustainable.
- ii. Exemption to pay some taxes i.e SDL and Import Duty – the organization have confirmed that they are not required to pay SDL and are exempted from paying import duty on imported goods intended for their charitable functions. This has also helped them to save funds that are used in other operations. And also reduces overhead costs to donors making the organization attractable to funding.
- iii. Protection of revenue streams – the organizations have confirmed that acquiring charitable status helps to protect other revenue streams. For example, the law allows them to dispose investment properties and the proceeds are not taxed provided they are used to further their charitable functions. In Complex, lengthy and unclear application processes – although the law stipulates what is required for an organization to be considered for charitable status, the process is very complex, unclear, subject to multiple interpretation and marred with a lot of bureaucracy. It is difficult for a CSO to manage the process itself. The study reveals that all the interviewed organization had to hire a tax consultant that would help them through the process. Even with the tax consultant, it took them the duration ranging from 1 to 4 years to complete the process.
- iv. Inconsistent interpretation of tax statutes/provisions – The experience from interviewed organizations shows that often tax officials from TRA interpret the statutes/provisions differently. Although the law is very clear on what conditions needs to be fulfilled for an organization to considered for charitable status, but in most cases the tax officials have their own understanding of the provisions that may lead to denial of an application by a deserving organization. For example, one of the interviewed organizations had previously been granted Charitable Status for several years and has been operating and recognized as a charitable organization. But after expiration of the certificate and when it made an application for renewal of the certificate, it was informed that their application has been denied because their functions/objectives does not fall within the purview of the law as provided under s.64(8) of Income Tax Act and therefore it was required to amend its Constitution if it intends to get a Charitable Status. The organization is stuck!
- v. The experience shows also that when making an application for renewal of certificate of charitable status, the organization is required to go through the same process as if it is the fresh and first application. This creates uncertainty and administrative challenges to CSOs.
- vi. Requirement of Audited Financial statements for three previous years – the experience shows that this requirement poses very high challenge to CSOs that have just started operation or have just been registered to operate. Some of the organization treat this as discriminatory factor for start up CSOs. They argue that most of CSOs do qualify for charitable functions as the law provides, but this requirement denies them the right and privilege to serve the community they intend to serve. The argument is either to remove this requirement and put in place a mechanism to monitor organizations that have been given charitable status or to reduce the required years to at least one year.
- vii. Limited awareness and capacity – the experience shows that many CSOs lack knowledge of legal and tax procedures for obtaining charitable status. Most of them have knowledge of the existence of this opportunity (to be recognized as charitable organization) but have limited knowledge on the requirements and procedures to apply for it. Most of them also are unaware of the benefits that can be obtained by been a Charitable Organization.
- viii. Limited scope of definition of a Charitable Organization – the current definition of the charitable organization is limited and does not include other functions such as advocacy, community economic empowerment and human rights. Therefore, CSOs that work under these areas do not enjoy the right

to be recognized as Charitable Organizations. This denies them the right and privilege to enjoy the opportunities and benefits of being a charitable organization although they are doing their work not for profit and for the interest of the public. The argument is to expand the scope of the definition to give equal and fair treatment of organizations doing charitable functions.

- ix. In addition to that, if a particular CSO invests in a particular investment that generates income, that income is not subjected to tax provided that the generated income is used wholly and exclusively for the charitable functions. This allows them to protect their revenue streams and hence making them sustainable.
- x. Opportunity to defer some funds – some organizations have confirmed that they have been enjoying the opportunity to defer some funds for future use. This is the opportunity where an organization is allowed to apply to TRA to defer some funds that would otherwise be used in a particular year to be used in the next year(s) (as per s.64 (7) of the Income Tax Act). This has helped them to protect these funds from being taxed as corporate tax because would have been regarded as normal income if it was not protected by applying to TRA for approval to defer them for future use.
- xi. Reduction of burden to pay income tax – some organizations have managed to demonstrate that 75 percent of their income are used in the pursuit of activities that benefit the public. In addition to that, they are allowed to deduct 25% of the organization's income from their charitable business, therefore making them non-taxable in as far as income tax is concerned. The 25% allowable deduction have helped them to save funds to sustain their charitable functions.

4.2 Challenges in Obtaining Charitable Status

Despite the benefits, CSOs in Tanzania face several challenges in obtaining and maintaining charitable status:

a) Compliance Requirements after Obtaining Charitable Status

The CSOs that have acquired Charitable Status are required to comply with all the conditions associated with a charitable organization as provided by the law. That is to say, all the conditions that were used to grant charitable status must be maintained at all time. Once the organization ceases or fail to maintain the conditions, it shall be treated as conducting a business other than its previous charitable business and therefore it will be subject to taxation (s.64(6) of Income Tax Act).

In addition to that, the organization is expected to prepare audited financial statement each year and file returns monthly as required by the law.

b) Challenges on compliance

The experience shows that there are no notable challenges on compliance.

5.0 Comparative Analysis/Experience from other Countries

Kenya

- i. The recent studies shows that the conditions for an organization to be considered for a charitable status in Kenya is almost similar to conditions in Tanzania. The areas of focus for charitable objectives are also almost the same. The only notable difference is that Kenyan Law have given an opportunity for organizations that intends to apply for charitable status to have been in operation at least one year since its establishment. (Rule 17 (2) of the Kenya's Income Tax (Donations and Charitable Organizations Exemption) Rules, 2024).
- ii. To ensure clarity and consistent on application process and interpretation of provision relating to Charitable Status, Kenya decided to a specialized rules on charitable status. It is called "Income Tax (Donations and Charitable Organisations Exemption) Rules, 2024". These rules stipulate clearly what is considered as charitable organization, application procedures, available benefits, rules on revocation of a charitable status, appeal procedures and compliance requirements. This makes it easier for any organization that wants to apply for the charitable status to predict the outcome of its application.
- iii. An interesting finding is that the Commissioner General in Kenya have been given time limit within which he/she is required to issue charitable certificate if all the conditions are met. The law requires

the Commissioner to issue the certificate **within sixty days** of the lodging of the application where all the requirements have been met. (Rule 18 (1) (b) of the Kenya's Income Tax (Donations and Charitable Organizations Exemption) Rules, 2024). The law provides further that where an application is declined, the Commissioner shall inform the applicant in writing providing the reasons for the decline. This means there is certainty on when the organization expects to get responses from the Commissioner General. This is not the case in Tanzania.

- iv. Once the certificate has been cancelled by the Commissioner General, the organization may appeal to the Tax Tribunal if it is not satisfied with the decision of the Commissioner general to cancel its certificate. (Rule 22 of the Kenya's Income Tax (Donations and Charitable Organizations Exemption) Rules, 2024). There is no such clarity in Tanzania once an organization's certificate has been cancelled.

Zambia

- i. Charitable organizations are referred as Public Benefit Organizations. All the conditions for being granted Charitable Organization are almost similar to Tanzania. One notable fact is that, just like Kenya, Zambia also considered the organization eligible for charitable status if it has operated for a minimum 12 months (1 year). Another notable fact is that, the Commissioner General only recommends to the Minister responsible for Finances for the minister to approve issuance of a certificate of charitable status.
- ii. Most of the reviewed countries do have similar provisions like Tanzania. Countries like South Africa, Ghana, Nigeria, Ethiopia and Senegal which have been regarded as having good legal framework for obtaining and taxation of charitable organizations have proven to have similar provisions. For purposes of this paper, the above-mentioned countries have stood out to have something worth learning from them to improve our legal framework.

6.0 Conclusion

Charitable status of CSOs in Tanzania is a critical issue that requires careful consideration and reform. While charitable status provides significant benefits, the current legal environment poses challenges that hinder the effectiveness and sustainability of CSOs. Tanzania can unlock the full potential of civil society sector to contribute to national development by addressing these challenges and therefore, fostering a more enabling environment for sustainability of CSOs.

6.0 Recommendations

In order to enhance the effectiveness of charitable CSOs and encourage more CSO to apply for Charitable Status, the following measures should be considered:

- i. Advocate for a simplified and harmonized the legal framework – a unified law on charitable organizations can reduce bureaucratic complexities.
- ii. Advocate for improvement on transparency in tax exemption processes – TRA should provide clear guidelines and timelines for approvals.
- iii. Advocate for the definition and scope of Charitable Organization to be expanded to include organizations that work in other areas of public interest such as promotion of good governance, human rights, community economic empowerment and advocacy.
- iv. Awareness Programs and Capacity building for CSOs – awareness programs for CSOs should be designed and implemented to make CSOs aware of the opportunity and benefits of a charitable organization. Training on legal compliance and financial management can also help organizations navigate regulatory requirements.
- v. Advocate for reduction of required minimum number of years of operations before an organization applies for a Charitable Status from 3 years to at least 1 year.
- vi. Regular stakeholder engagement – CSOs should consider having regular dialogues with government agencies (TRA and the Ministry of Finance and Planning) that can lead to building a collaborative relationship and policy or legal improvements that support the sector.

7.0 References and Annexures

7.1 References

- i. The Income Tax Act, [Cap 332 R.E. 2019]
- ii. The Tax Administration Act, [Cap 438 R.E. 2019]
- iii. The Finance Act, 2024
- iv. The Value Added Tax Act, [Cap 148 R.E. 2019]
- v. The Non-Governmental Organizations Act, [Cap. 56 R.E. 2019]
- vi. The Societies Act, [Cap 337 R.E. 2019]
- vii. The Trustees Incorporation Act, [Cap 318 R.E. 2019]
- viii. Taxation for Nonprofit Organizations in Tanzania: A guide for Civil Society Organizations (Second Revised Edition 2024)
- ix. Charitable Organizations or Religious Organizations (Approval and Calculation of Income from Charitable Business): Practice Note No. 04/2013; issued 1st November, 2013.
- x. Reports and publications by Tanzanian CSOs and international organizations on the regulatory environment for CSOs

7.1 Annexure: A Computation of Taxable Income of a Charitable Organization

The modality of taxation on the income generated by a charitable organization is provided for under the provisions of 64 of the Income Tax Act. The table below illustrates the computation.

Take any income generated by the charitable/religious organization 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	
Less: All expenditures applied pursuant of the functions falling under the definition of a charitable organization	
Less: The charitable organization's savings approved by the Commissioner General to finance further charitable projects if any	
Taxable income of a charitable	