

Legal Notice No. _____

INCOME TAX ACT

(CAP 470)

**INCOME TAX (DONATIONS AND CHARITABLE ORGANISATIONS
EXEMPTION) RULES, 2023**

IN EXERCISE of the powers conferred by section 130 of the Income Tax Act, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—		
1.	Citation	The Rules may be cited as Income Tax (Donations and Charitable Organisations Exemption) Rules, 2023.
2.	Interpretation	In these Rules, unless the context otherwise requires —
		"Act" means the Income Tax Act, Cap 470;
		"approved project" means a project approved by the Cabinet Secretary;
		"beneficiary" means the member of the public who may receive benefits from a charitable organisation's activities;
		"business" shall have the meaning assigned to it under section 2 of the Act;
		"cash donation" includes a donation given in form of a cheque;
		"charitable activities" means activities carried out in furtherance of a charitable purpose;
		"charitable organisation" means an institution, body of persons or irrevocable trust of a public character: (a) established solely for the purposes of the relief of poverty or distress of the public, or for the advancement of religion or education; and (b) established in Kenya or whose regional headquarters is situated in Kenya.
		"charitable purpose" means a purpose which falls within Paragraph 10 of the Act;
		"Commissioner" has the meaning assigned to it under the Act;
		"institution, body of persons or irrevocable trust, of a public character" has the meaning assigned to it in Paragraph 10 of the Act;
		"First Schedule" means the First Schedule to the Act;
		"governing document" means a constitution, memorandum or articles of association, trust deed or any

		<p>other written instrument by which a charitable organisation is established and governed.</p> <p>“Paragraph 10” means paragraph 10 of Part 1 of the First Schedule to the Act;</p> <p>“private benefit” means any benefit that a person receives other than as a beneficiary of a charitable organisation;</p> <p>“purposes or objects” means objectives and goals that an institution, body of persons or irrevocable trust, of a public character is constituted to achieve;</p> <p>“Tribunal” means the Tax Appeals Tribunal established under section 3 of the Tax Appeals Tribunal Act, Cap 469A.</p>
3.	Objects of the Rules	<p>These Rules are meant to provide:</p> <p>a) guidelines for the allowability of donations under section 15(2)(w); and</p> <p>b) the application, processing, granting and retention of income tax exemptions under Paragraph 10;</p>
4.	Requirements for exemption	<p>Pursuant to sections 13(1) and 26 and Paragraph 10, the income of a charitable organisation which accrued in or was derived from Kenya shall be exempt from tax to the extent that the Commissioner is satisfied that the income of such a charitable organisation is to be expended either in Kenya or in circumstances in which the expenditure of that income is for the purposes which result in the benefit of the residents of Kenya:</p> <p>Provided that any such income which consists of gains or profits from a business shall not be exempt from tax unless such gains or profits are applied solely to such charitable purposes and either—</p> <p>(i) such business is carried on in the course of the actual execution of such purposes;</p> <p>(ii) the work in connection with such business is mainly carried on by beneficiaries under such purposes; or</p> <p>(iii) such gains or profits consist of rents (including premiums or any similar consideration in the nature of rent) received from the leasing or letting of land and any chattels leased or let therewith.</p>
5.	Establishment for Charitable Purposes Only	<p>The Commissioner shall consider a charitable organisation to be established solely for charitable purposes only if—</p> <p>(a) it is organised and operated exclusively for one or more of the charitable purposes; and</p> <p>(b) its charitable purposes are directed towards public benefit.</p>
6.	Organisational	<p>The Commissioner shall consider a charitable organisation to</p>

	Test	<p>be organised exclusively for one or more charitable purposes only if such a charitable organisation's governing document—</p> <p>(a) limits the objects of such a charitable organisation to one or more charitable purposes.</p> <p>Provided that a charitable organisation shall in its founding document clearly;</p> <p>(i) State its primary charitable purpose;</p> <p>(ii) Specify the charitable activities it intends to carry out to achieve its charitable purpose;</p> <p>(iii) Specify the charitable organisation's targeted beneficiaries;</p> <p>(iv) Specify the criteria for defining and selecting its beneficiaries in a manner that is open and need based;</p> <p>(b) does not expressly empower such a charitable organisation to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more charitable purposes;</p> <p>(c) prohibits it from providing private benefits, directly or indirectly, by making any part of its income payable to or available to any person including its creators or their families, shareholders, members, employees, office bearers, directors, trustees, or persons controlled, directly or indirectly, by such private interests except as is provided in these Rules;</p> <p>(d) restricts the use of the charitable organisation's assets to the charitable purpose for which it was founded; and</p> <p>(e) requires it to, upon dissolution, transfer its assets to another charitable organisation with similar objects.</p> <p>Provided that where any amendments are made to the founding document, the organisation exempted under paragraph 10 shall be required to submit to the Commissioner a copy of the amendments to founding document within thirty days.</p>
7.	Operational Test	<p>The Commissioner shall not consider a charitable organisation to be operated exclusively for one or more charitable purposes unless-</p> <p>(a) it engages primarily in activities which accomplish the charitable purpose for which it was founded; and</p> <p>(b) it does not take part in illegal activities including, terrorism, fraud, or money laundering.</p>
8.	Public Benefit	<p>(1) The Commissioner shall consider a charitable organisation's purpose and activities to be directed towards</p>

		<p>public benefit only if-</p> <ul style="list-style-type: none"> (a) the charitable organisation's purpose and activities are beneficial in a manner that the beneficiaries are identifiable and can attest to the said benefits where required; (b) the benefits of the charitable activities are related to the charitable organisation's purpose; (c) the charitable organisation's purpose and activities benefit the specified target groups or the public in general or a sufficient section of the public; (d) people living in poverty are not excluded from the opportunity to benefit; and (e) it does not provide private benefits, directly or indirectly, by making any part of its income payable to or available to any person including its creators or their families, shareholders, members employees, office bearers, directors, trustees, or persons controlled, directly or indirectly, by such private interests except as provided in these Rules; <p>(2) The charitable purpose shall benefit either the public in general or a sufficient section of the public if-</p> <ul style="list-style-type: none"> (a) in the case of the public, the benefit accrues to residents of Kenya in general without limitation to people with a particular need or who have to satisfy some other criteria; or (b) in the case of a sufficient section of the public, if the charitable organisation complies with the provisions of subrules 3 to 7. <p>(3) The Commissioner shall consider the charitable purpose to benefit a sufficient section of the public if there are no unreasonable or unjustifiable restrictions on the opportunity to benefit from the charitable purpose.</p> <p>(4) A restriction shall be unreasonable or unjustifiable if it is irrelevant to achieving the charitable organisation's charitable purpose.</p> <p>(5) A charitable organisation may define the class of persons eligible to benefit from its charitable purpose by reference to-</p> <ul style="list-style-type: none"> (a) persons with a particular charitable need; (b) reasonable geographical restrictions provided that the restriction shall be unreasonable if the geographical area is too narrowly defined given the particular charitable purpose. <p>(6) The Commissioner may when making a determination on the application of a charitable organisation that proposes to restrict its benefits to a section of the public, consider one or</p>
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		<p>more of the following factors in order to determine if the restriction is reasonable or justifiable -</p> <ul style="list-style-type: none"> (a) the logical connection between the restriction and the benefit provided; (b) whether the restriction arises from an intention to use resources to address a specific acute disadvantage or need identified with a particular group or a particular region; (c) whether the restriction precludes the delivery of services to some individuals or parts of the community that also have the identified need; (d) whether the services provided are irrelevant to excluded persons; and (e) whether the restriction can be supported by evidence of service including needs assessment and social science research. <p>(7) Notwithstanding anything to the contrary contained in these Rules, the Commissioner shall not consider a charitable organisation to have met the requirements set out under this rule if the criteria such a charitable organisation uses for defining persons eligible to become beneficiaries -</p> <ul style="list-style-type: none"> (a) excludes the poor from benefiting; (b) is based on a personal connection, such as family relationships or common employment; or another connection unrelated to the organization's purpose, such as membership in a group unrelated to the need served; (c) proposes a numerically negligible number of persons who can benefit; (d) defines persons who are eligible to become beneficiaries in a manner which, when related to the purpose, is capricious or wholly irrelevant, irrational or without good reason; and (e) save as provided in these Rules, limits persons who are eligible to become beneficiaries to members of the charitable organisation only. <p>(8) There shall be no presumption of public benefit, the obligation shall be on the charitable organization to provide evidence that its activities benefit the target beneficiaries and that it meets the requirements set under this rule.</p> <p>(9) In any case where a charitable organisation has more than one charitable purpose, the public benefit of one purpose shall not be used to offset any lack of public benefit in another.</p> <p>(10) For the Commissioner to be satisfied that the income of</p>
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		a charitable organisation is expended either in Kenya or in circumstances in which the expenditure of that income is for the purposes which result in the benefit of the residents of Kenya, then such charitable organisation must meet the requirements set in this Rule.
9.	Charitable Purposes	In accordance with Paragraph 10, the income of a charitable organisation which accrued in or was derived from Kenya shall only be exempt from tax if such a charitable organisation is established solely for the following purposes – <ul style="list-style-type: none"> (a) the relief of the poverty; or (b) the relief of distress of the public; or (c) the advancement of religion; or (d) the advancement of education.
10.	Relief of Poverty for Public Benefit	<p>(1) For the purposes of Paragraph 10, relief of poverty means to bring relief to those experiencing poverty or are needy.</p> <p>(2) A person shall be deemed to be experiencing poverty or is needy if the person does not have the ability to acquire the basic necessities of life or simple amenities, which the majority of the population in Kenya would regard as necessary for a modest, but adequate, standard of living.</p> <p>(3) To qualify for exemption, a charitable organisation established for the relief of poverty shall satisfy the Commissioner that-</p> <ul style="list-style-type: none"> (a) it is organised and operated exclusively for the relief of poverty; (b) its beneficiaries are restricted to persons experiencing poverty only; and (c) its charitable purposes and charitable activities provide a public benefit that relieves the poverty of its beneficiaries. <p>(4) To satisfy the requirements provided in subrule 3(b), a charitable organisation established for the relief of poverty shall have an appropriate criteria to guide it in-</p> <ul style="list-style-type: none"> (a) defining persons eligible to become its beneficiaries; and (b) select the beneficiaries who will receive benefits. <p>(5) To satisfy the requirements in subrule 3(b), a charitable organisation established for the relief of poverty shall be required to satisfy the Commissioner that it meets the requirements.</p> <p>(6) A charitable organisation will be considered to relieve</p>

		<p>poverty if;</p> <ul style="list-style-type: none"> (a) it provides training, support or assistance to poor farmers in order to improve capacity to start and manage agricultural operations; (b) it provides community development for poor and needy persons including— <ul style="list-style-type: none"> (i) the promotion of community-based projects relating to self-help, empowerment; (ii) capacity building and skills development for poor and needy persons; and (iii) the provision of training, support or assistance to community-based projects relating to self-help, empowerment; (c) the provision of education, training, healthcare projects and all the necessary support designed to enable the poor to generate a sustainable income and be self-sufficient. (d) it provides any other community based support designed to help the poor and needy persons generate sustainable income or be self sufficient.
<p>11.</p>	<p>Advancement of Religion for Public Benefit</p>	<ul style="list-style-type: none"> (1) To qualify for exemption, the Commissioner shall require a charitable organisation established for the advancement of religion to satisfy the Commissioner that- <ul style="list-style-type: none"> (a) it is organised and operated exclusively for the advancement of religion; and (b) it meets all the other requirements. (2) A charitable organisation established for the advancement of religion may advance religion by- <ul style="list-style-type: none"> (a) seeking new followers or adherents through proselytising; (b) encouraging and facilitating the practice of the religion by existing followers or adherents through the provision of places of worship including - <ul style="list-style-type: none"> (i) the provision and maintenance of a building used for religious practice including churches, gurdwaras, mosques, synagogues, and temples; (ii) the conducting of religious ceremonies, celebration of marriages or funerals; (iii) the maintenance of public church yards and other public religious burial places; (iv) the saying of masses open to the public; (v) the provision and maintenance of religious or

		<p>devotional artefacts and items used in religious services, rituals or practices;</p> <p>(c) the raising of awareness and understanding of religious beliefs and practices, including:</p> <ul style="list-style-type: none"> (i) advancing a particular interpretation of a religious doctrine, or advancing particular religious tenets, provided that the charity is not doing so in order to achieve a political purpose; (ii) producing and promoting religious books, tracts, films and other information for the public, including providing religious resource centres and libraries; (iii) promoting the study of religious teachings and practices and scriptures; (iv) promoting religious doctrines through producing and performing musical and theatrical liturgy; (v) providing religious instruction and supervision; (vi) providing theological training colleges, which provide education in accordance with the principles and practices of the religion; (vii) support of religious office holders for acting as such, including the provision of stipends and other living allowances, pensions and retirement accommodation; (viii) promoting prayer, praise and study. <p>(d) Missionary and outreach work, including-</p> <ul style="list-style-type: none"> (i) the provision of prison, hospital, university and industrial chaplaincy; (ii) prison and hospital visiting; (iii) the encouragement and support of pastoral work; and (iv) cultural and community activities provided either in the place of worship or in the buildings attached including the provision of free community kitchens in gurdwaras; <p>(e) religious communication, including sermons and religious seminars, talks, meetings and conferences; and</p> <p>(f) organising open pilgrimages where the pilgrimage is part of the public worship of a recognised religious group and where the purpose of the pilgrimage is</p>
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		<p>more than personal devotion.</p> <p>(g) Any other religious activity as authorised and governed by the laws of Kenya.</p>
12.	Advancement of Education for Public Benefit	<p>(1) The advancement of education means-</p> <p>(a) the provision of basic education, including adult basic education and education offered in early childhood education centres, by a school as defined by the Basic Education Act, No 14 of 2013;</p> <p>(b) the provision of university education by a university or technical university as defined under the Universities Act No. 42 of 2012;</p> <p>(c) the provision of technical, vocational education and training by an institution as defined under the Technical and Vocational Education and Training Act, No. 29 of 2013;</p> <p>(d) the provision of facilities and training or education of persons living with disability as approved by a relevant Government agency;</p> <p>(e) the provision of bridging courses to enable educationally disadvantaged persons to enter a university, technical university or institution that provides technical or vocational education and training as envisaged in paragraph (b) and (c);</p> <p>(f) the provision of school buildings, libraries or equipment for educational institutions engaged in the activities contemplated in paragraphs (a) to (e);</p> <p>(g) the provision of programmes, policies, innovations addressing needs in education provision, learning, teaching, training, curriculum support, governance, whole school development, as envisaged in paragraphs (a) to (e) subject to approval and adoption by the Ministry of Education;</p> <p>(h) the provision of educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy;</p> <p>(i) publishing or provision of school text books.</p> <p>(2) To qualify for exemption, a charitable organisation established for the advancement of education shall satisfy the Commissioner that-</p> <p>(a) it is organised and operated exclusively for the advancement of education;</p> <p>(b) it meets the public benefit requirements provided in these Rules;</p> <p>(c) its educational services are accessible to the poor</p>

		<p>and needy;</p> <p>(d) it caters for educational needs for persons with disability and abandoned children; and</p> <p>(e) in the case of fee charging educational institutions, full scholarships are granted to at least ten percent of its students population who must be from poor and needy backgrounds and the selection criteria conforms to the requirements spelt under these Rules.</p>
13.	Relief of Distress of the Public	<p>(1) To qualify for exemption, a charitable organisation established for the relief of the distress of the public shall satisfy the Commissioner that-</p> <p>(a) it is organised and operated exclusively for the relief of the distress of the public; and</p> <p>(b) it meets the public benefit requirement provided in Rule 8.</p> <p>(2) For the purposes of these Rules, the relief of distress of the public means -</p> <p>(a) the provision of disaster relief to victims of a natural disasters including landslides, earthquakes, floods, hurricanes and wildfires;</p> <p>(b) the prevention of deterioration of society through conflict resolution and environmental preservation that mitigates against climate change and desertification;</p> <p>(c) the care or counseling of, or the provision of education programmes relating to abandoned, abused, neglected, orphaned or homeless children;</p> <p>(d) the rehabilitation, care or counseling of persons addicted to a dependence-forming substance or the provision of preventative and educational programmes regarding addiction to dependence-forming substances;</p> <p>(e) the provision of housing assistance for the elderly and persons with disability;</p> <p>(f) the combating of community deterioration and juvenile delinquency;</p> <p>(g) the provision of health care services to persons experiencing poverty or are needy;</p> <p>(h) the provision of education institutions that cater for orphans, abandoned children or persons with disabilities;</p> <p>(i) the provision of rehabilitative care or counselling and education for prisoners or former prisoners;</p>

		<p>(j) the care or counselling of terminally ill persons or persons with a permanent severe physical or mental impairment or disability;</p> <p>(k) any other health care provider authorized and regulated by the relevant government authority;</p> <p>(l) the care or treatment and prevention of HIV infection, or the distribution of information, the provision of preventative and education programmes relating to HIV/AIDS;</p> <p>(m) the provision of homecare services by healthcare providers to the needy or to those who are critically ill;</p> <p>(n) the provision to persons experiencing poverty with the basic necessities of life including shelter; clothing; food; personal hygiene items, health care and access to water and sanitation;</p> <p>(o) the provision to persons experiencing poverty with simple amenities, necessary for a modest but adequate standard of living, and by having activities that promote social inclusion including care services for other dependents (such as elderly, critically ill, or otherwise disadvantaged household members);</p> <p>(p) the provision of school supplies to the youth who are experiencing poverty;</p> <p>(q) payment of school fees or grant of scholarships for the poor and needy; or the operation of feeding programs for homeless people.</p> <p>(3) A charitable organisation established for the relief of disress of the public through the provision of health care services and which charges fees shall, in order to satisfy the Commissioner that it has been established for public benefit, ensure that it meets following requirements, in addition to the requirements set out in Rule 8 -</p> <p>(a) that it maintains an open medical staff policy, with privileges available to all qualified physicians;</p> <p>(b) that members of its active medical staff have the privilege of leasing available space in its medical building;</p> <p>(c) that its board of trustees is composed of independent leaders drawn from the community;</p> <p>(d) it operates an active emergency room accessible for treatment to all members of the general public, regardless of ability to pay;</p> <p>(e) it shall offer emergency treatment for free;</p>
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		<p>(f) it offers free access to specialized medical equipment that is not available at the local hospitals; and</p> <p>(g) it demonstrates that it allocates resources to cater for general medical care of the poor and needy.</p>
14.	Remuneration	<p>(1) A charitable organisation shall not distribute its income, directly or indirectly, to any person except for services rendered.</p> <p>(2) Remuneration may, amongst other things, include amounts of income paid or payable by way of any salary, fee, bonus, wage, gratuity, pension, leave encashment, emolument, voluntary award, commission, annuity, stipend, overtime, superannuation allowance, retirement allowance, lump sum benefit payment and director's remuneration.</p> <p>(3) There must be a causal connection between the remuneration paid, in relation to the service rendered by that person and the amount generally charged for such a service in that sector.</p>
15.	Participation in tax avoidance Schemes	A charitable organisation shall not be party to or permit itself to be used for any transaction, operation or scheme, the sole or main purpose of which is or was to reduce, postpone, or avoid any tax, duty or levy which would otherwise have been or would have become payable by any person under the Act or under any other Act administered by the Commissioner.
16.	Accumulation of surplus	<p>A charitable organisation may accumulate surplus funds as desired, provided that it shall not retain more than an average of fifteen percent of its funds in a period of three succeeding years, without applying it to its charitable purposes.</p> <p>Provided that the surplus funds so retained do not include gains and profits arising from business as provided for in paragraph 10.</p>
17.	Application	<p>(1) An application for exemption shall be made in the prescribed form and shall be submitted to the Commissioner accompanied with the following-</p> <p>(a) a certified copy of the governing documents of the applicant including rules, constitution, trust deed, memorandum and articles of association;</p> <p>(b) a certified copy of the registration documents of the applicant;</p> <p>(c) audited financial statements of the applicant for a period of the three years immediately preceding the lodging of the application;</p> <p>(d) a schedule of assets of the applicant including their corresponding values;</p> <p>(e) original bank statements of the applicant for a</p>

		<p>period of three years immediately preceding the lodging of the application;</p> <p>(f) original introduction letter from the office of the County Commissioner of the County where the principal activities of the organisation are carried out;</p> <p>(g) the applicant’s impact report describing in detail-</p> <p style="padding-left: 40px;">(i) the past, present and future activities of the applicant;</p> <p style="padding-left: 40px;">(ii) how the activities of the applicant are intended or have benefited the residents of Kenya;</p> <p>(h) the applicant’s criteria for defining and selecting its beneficiaries;</p> <p>(i) an itemized summary of the payments made by the applicant showing the payee, amount and purpose of payment</p> <p>(j) in case the applicant receives donations, the requirements under Rule 25 shall apply;</p> <p>(k) certified copies of identity documents of all the responsible office bearers of the applicant;</p> <p>(l) proof of applicant’s physical address;</p> <p>(m) a copy of valid tax compliance certificate and in the event of a renewal, a copy of expired tax exemption certificate of the applicant;</p> <p>(n) Letter of authority, power of Attorney or appointment letter for the representative of the applicant; and</p> <p>(o) any other information the Commissioner may consider relevant to the application.</p> <p>Provided that:</p> <p style="padding-left: 40px;">(i) a charitable organisation applying for the exemption for the first time should have been in operation for a minimum of one year period; and</p> <p style="padding-left: 40px;">(ii) an application for a renewal of exemption certificate shall be made atleast six months prior to the expiry of the existing certificate.</p>
<p>18. Income Tax Exemption Certificate</p>		<p>(1) The Commissioner shall, where an applicant has complied with all the requirements provided in these Rules issue the applicant with a tax exemption certificate.</p> <p>Provided that an exemption under these Rules—</p> <p style="padding-left: 40px;">(a) shall be valid for a period of five years but may be revoked by the Commissioner at any time for any</p>

		<p>just cause;</p> <p>(b) shall be issued within sixty days of the lodging of the application and all the requirements have been met;</p> <p>(c) shall be applicable as follows -</p> <p>(i) For renewals, from the date of application or expiry of the earlier certificate whichever is later; and</p> <p>(ii) For new applications, from the date of approval of the exemption.</p>
		<p>(2) Where an application for the tax exemption is declined, the Commissioner shall inform the applicant in writing providing the reasons for the decline.</p>
19.	Returns	<p>(1) A charitable organisation shall submit on an annual basis an Income Tax Return in the prescribed form.</p> <p>(2) Any amendments to a return submitted in accordance with these Rules shall be made in accordance with section 31 of the Tax Procedures Act, Cap. 469B.</p> <p>(3) Save as provided in these Rules, a return, application, notice, or other document to be lodged or submitted under the Rules shall be lodged or submitted in accordance with the Tax Procedures Act, Cap. 469B.</p>
20.	Revocation of Exemption	<p>(1) Where the Commissioner is—</p> <p>(a) satisfied that any charitable organisation exempted under these Rules has during any year of income in any material respect; or</p> <p>(b) during any year of income satisfied that any such charitable organisation has on a continuous or repetitive basis,</p> <p>failed to comply with the provisions of these Rules, or the governing document under which it is established to the extent that it relates to the provisions of these Rules or for any other just cause, the Commissioner shall after due notice withdraw the exemption of the charitable organisation with effect from the commencement of that year of assessment, where corrective steps are not taken by that organisation within a period stated by the Commissioner in that notice.</p> <p>(2) The provisions of this rule shall not, if the Commissioner is satisfied that the noncompliance giving rise to the withdrawal contemplated in subrule (1) has been rectified, preclude any such organisation from applying for exemption in terms of this section in the year of income following the year of income during which the approval was so withdrawn by the Commissioner.</p>

21.	Furnishing of Documents	<p>(1) The Commissioner may by notice in writing require any person whom the Commissioner deems able to furnish information in regard to any charitable organisation—</p> <p>(a) to answer any questions relating to such organisation; or</p> <p>(b) to make available for inspection by the Commissioner or any person appointed by him, any books of account, records or other documents relating to such organisation; or</p> <p>(c) to attend, at the time and place appointed by the Commissioner for the purposes of producing for examination by the Commissioner or any person appointed by him, any books of account, records or other documents relating to such organisation.</p>
22.	Appeals	<p>A person who disputes the decision of the Commissioner to decline his application for exemption or to withdraw his exemption status, may, within thirty days of receipt of the decision to decline the application or to revoke the exemption status, and upon giving notice in writing to the Commissioner, appeal to the Tribunal.</p>
23.	Non-applicability of these Rules	<p>The Commissioner shall not issue an exemption to an organisation which-</p> <p>(a) exclusively funds, donates or supports other charitable organisations without operating a charitable purpose;</p> <p>(b) has been granted tax exemption under another law or other provisions.</p>
24.	Compliance with other tax laws	<p>The Commissioner shall require all charitable organisations to comply with the provisions of any applicable tax laws, including filing of tax returns in the manner prescribed in the tax law.</p>
25.	Rules on Donations	<p>The following rules shall apply to donations:</p> <p>(1) Donations shall be paid out of the income of the donor.</p> <p>(2) For a donation to qualify for tax deduction under section 15(2)(w) of the Act, the donor shall provide proof of the donation and utilization by the recipient to the Commissioner:</p> <p>Provided that the recipient is in full compliance with rule 16 of these rules.</p> <p>(3) The proof of the donation and its utilization by the recipient required in subrule (2) shall be:</p> <p>(a) in form of a receipt issued and certified by the recipient of the donation;</p> <p>(b) approved project proposals and budgets submitted</p>

		<p>by the charitable organisation and approved by the donor;</p> <p>(c) compliance with the requirement for accumulation of surplus under rule 16;</p> <p>(i) a copy of the exemption certificate issued by the Commissioner to the charitable organization, or the Cabinet Secretary's approval of the project to which the donation is made;</p> <p>(ii) a declaration from the donee that the donation shall be used exclusively for the objects of charity</p>
		<p>(4) For purposes of these Rules, donations made shall-</p> <p>(a) be in cash and shall not be repayable or refundable to the donor under any circumstance;</p> <p>(b) not confer any direct or indirect benefit to the donor or any person associated to the donor;</p> <p>(c) under no circumstances be revoked once conferred upon a charitable organization, unless there is approval by the Commissioner in which case the tax arising shall be due and payable.</p>
		<p>(5) The receipts, project proposals and other documents required to be produced as proof of a donation and its utilization shall have the following details-</p> <p>(a) the full names and address of the recipient;</p> <p>(b) the Personal Identification Number (PIN) of the recipient;</p> <p>(c) date of donation;</p> <p>(d) purpose for which the donation was made; and</p> <p>(e) amount of donation</p>
26.	Revocation L.N. 101/2007	The Income Tax (Charitable Donations) Regulations, 2007 are revoked.

Made on the _____ 2023

NJUGUNA NDUNGU
Cabinet Secretary for the
National Treasury and Economic Planning.