

SPECIAL ISSUE

Kenya Gazette Supplement No. 122

1825

18th June, 2024

(Legislative Supplement No. 48)

LEGAL NOTICE NO. 105

THE INCOME TAX ACT

(Cap. 470)

THE INCOME TAX (CHARITABLE ORGANISATIONS AND
DONATIONS EXEMPTION) RULES, 2024

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THE INCOME TAX ACT

(Cap. 470)

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 Rules—

THE INCOME TAX (CHARITABLE ORGANISATIONS AND DONATIONS EXEMPTION) RULES, 2024

1. These Rules may be cited as the Income Tax (Charitable Organisations and Donations Exemption) Rules, 2024. Citation.

2. In these Rules, unless the context otherwise requires— Interpretation.

“approved project” means a project approved by the Cabinet Secretary;

“beneficiary” means a member of the public who may receive a benefit from the activities of a charitable organisation;

“charitable activity” means an activity carried out in furtherance of a charitable purpose;

“charitable organisation” means an institution, body of persons or irrevocable trust of a public character established—

(a) under the relevant written law solely for the purposes of the relief of poverty, or distress of the public, or for the advancement of religion or education; and

(b) in Kenya or whose headquarters is situated in Kenya;

“charitable purpose” means a purpose which falls within paragraph 10 of Part 1 of the First Schedule to the Act;

“donation” means a benefit conferred on a person in kind, cash, promissory note, mobile money or money transfer in any form;

“institution, body of persons or irrevocable trust, of a public character” has the meaning assigned to it in paragraph;

“governing document” means a constitution, memorandum or articles of association, trust deed or any other written instrument by which a charitable organisation is established and governed;

“private benefit” means a benefit that a person receives other than as a beneficiary of a charitable organisation;

“purposes or objects” means the objectives and goals that an institution, body of persons or irrevocable trust, of a public character is formed to achieve;

“Tribunal” means the Tax Appeals Tribunal established under section 3 of the Tax Appeals Tribunal Act; and Cap. 469A.

“surplus funds” means the excess of income over expenditure in any given accounting period.

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| <p>3. The object of these Rules is to—</p> <p>(a) prescribe a procedure for determining the allowability of donations under section 15(2)(w) of the Act; and</p> <p>(b) prescribe the procedure for the application for, and processing, granting and retention of an exemption from income tax under paragraph 10 of Part 1 of the First Schedule to the Act.</p> | <p>Object of the Rules.</p> |
| <p>4. (1) Pursuant to section 13(1) of the Act and paragraph 10 of Part 1 of the First Schedule to the Act, 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 that charitable organisation—</p> <p>(a) is to be expended in Kenya; or</p> <p>(b) is to be expended for charitable purposes which result in the benefit of the residents of Kenya:</p> <p>(2) Sub-rule (1) shall not apply to the income of a charitable organisation which accrued in or was derived from Kenya and consists of gains or profits from a business unless such gains or profits are applied solely to such charitable purposes and—</p> <p>(a) the business is carried on in the course of the actual execution of the charitable purposes of the charitable organisation; or</p> <p>(b) the work in connection with such business is mainly carried on by beneficiaries under the charitable purposes of the charitable organisation; or</p> <p>(c) the 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> | <p>Requirements for exemption.</p> |
| <p>5. A charitable organisation shall be considered to have been 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 and result in the benefit to the residents of Kenya.</p> | <p>Establishment for charitable purposes only.</p> |
| <p>6. (1) A charitable organisation shall be considered to have been organised exclusively for one or more charitable purposes if the governing document of that charitable organisation—</p> <p>(a) limits the objects of the 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>Organisational test.</p> |

- (ii) specify the charitable activities it intends to carry out to achieve its charitable purpose;
 - (iii) specify the charitable organisation's targeted beneficiaries; and
 - (iv) specify the criteria for identifying and selecting beneficiaries in a manner that is open and needs-based;
- (b) does not expressly empower the charitable organisation to engage in activities which are not in furtherance or supportive of one or more charitable purposes;
 - (c) prohibits the charitable organisation 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 provided in these Rules;
 - (d) restricts the use of the charitable organisation's assets to the charitable purpose for which it was founded; and
 - (e) upon dissolution, requires the charitable organisation to transfer its assets to another charitable organisation with similar objects.

(2) Where any amendment is made to the governing document of a charitable organisation, the charitable organisation shall submit to the Commissioner a copy of the amended governing document within thirty days after the amendment has been made.

7. A charitable organisation shall not be considered to be operated exclusively for one or more charitable purposes unless—

Operational test.

- (a) the organisation engages primarily in activities which accomplish the charitable purpose for which it was founded; and
- (b) the organisation does not engage or take part in any unlawful activities.

8. (1) The purpose and activities of a charitable organisation's shall be considered to be for public benefit if—

Public benefit.

- (a) the purpose and activities are beneficial in a manner that the beneficiaries are identifiable and can attest to the said benefits when 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) the charitable organisation 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.

(2) The charitable purpose shall benefit either the public in general or a sufficient section of the public if—

- (a) in the case of the public, the benefit accrues to residents of Kenya in general without limitation; or
- (b) in the case of a sufficient section of the public, if the charitable organisation complies with the provisions of subrules (3), (4), (5), (6) and (7).

(3) The charitable purpose of a charitable organisation shall be considered to benefit a sufficient section of the public if there are no unreasonable or unjustified restrictions on the opportunity to benefit from the charitable purpose.

(4) A restriction of a charitable purpose shall be considered to be unreasonable or unjustified if it is irrelevant to the achievement of the charitable organisation's charitable purpose.

(5) A charitable organisation may define the class of persons eligible to benefit from its charitable purpose by reference to—

- (a) persons with a particular charitable need; or
- (b) reasonable geographical restrictions:

Provided that the restriction shall be considered to be unreasonable if the geographical area is too narrowly defined given the particular charitable purpose.

(6) The Commissioner may, when considering the application of a charitable organisation that proposes to restrict its benefits to a section of the public, consider one or more of the following factors in order to determine if the restriction is reasonable or justified—

- (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 that is 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 specific acute disadvantage or identified need;
- (d) whether the services provided are irrelevant to the excluded persons; and

- (e) whether the restriction can be supported by evidence of service including needs assessment and social science research.

(7) Notwithstanding anything to the contrary contained in these Rules, a charitable organisation shall not be considered to have met the requirements set out under this rule if the criteria the charitable organisation uses for defining its beneficiaries—

- (a) excludes the poor from benefiting;
- (b) is based on a personal connection, including family relationships or common employment, or connection that is unrelated to the organization's purpose including membership in a group unrelated to the need served;
- (c) proposes a numerically negligible number of persons who can benefit;
- (d) defines its beneficiaries in a manner which, when related to the purpose, is capricious or wholly irrelevant, irrational or without good reason; or
- (e) save as provided in these Rules, limits its beneficiaries to members of the charitable organisation only.

(8) 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.

(9) In order for the the income of a charitable organisation to be considered to have been expended in Kenya or in circumstances in which the expenditure of that income is for the purposes which result in a benefit for the residents of Kenya, then the charitable organisation shall be required to satisfy the requirements set out in this Rule.

9. The income of a charitable organisation which accrued in or was derived from Kenya shall be exempt from tax under paragraph 10 of Part 1 of the First Schedule to the Act if the charitable organisation is established solely for the following purposes—

- (a) the relief of poverty;
- (b) the relief of distress of the public;
- (c) the advancement of religion; or
- (d) the advancement of education.

10. (1) For the purposes of paragraph 10 of Part 1 of the First Schedule to the Act, “relief of poverty” means to bring relief to those persons experiencing poverty or are needy.

(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.

Charitable purpose.

Relief of poverty for public benefit.

(3) To qualify for exemption, a charitable organisation established for the relief of poverty shall be required to prove that—

- (a) it is organised and operated solely for the relief of poverty;
- (b) its beneficiaries are restricted to persons experiencing poverty; and
- (c) its charitable purposes and charitable activities provide a public benefit that relieves the poverty of its beneficiaries.

(4) To satisfy the requirements specified in subrule (3)(b), a charitable organisation established for the relief of poverty shall be required to prove that it has appropriate criteria to guide it in—

- (a) defining its beneficiaries; and
- (b) selecting the beneficiaries who will receive benefits.

(5) A charitable organisation will be considered to be established for the relief of poverty if—

- (a) it provides training, support or assistance to persons experiencing poverty in order to improve capacity to start and manage agricultural operations and other land uses that relieve them from poverty;
- (b) it provides community development for poor and needy persons including—
 - (i) the promotion of community-based projects relating to self-help and empowerment;
 - (ii) capacity building and skills development; and
 - (iii) the provision of training, support or assistance to community-based projects relating to self-help and empowerment;
- (c) it provides education, training, healthcare and necessary support to enable the poor to generate a sustainable income and be self-sufficient; or
- (d) it provides any other community based support to help the poor and needy persons generate sustainable income or be self-sufficient.

11. (1) A charitable organization shall be eligible for exemption on the basis that it is established for the advancement of religion if it proves that—

- (a) it is organised and operated exclusively for the advancement of religion; and
- (b) it meets all the other relevant requirements prescribed under these Rules.

(2) A charitable organisation established for the advancement of religion may advance religion by—

Advancement of religion for public benefit.

- (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—
 - (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 devotional artefacts and items used in religious services, rituals or practices;
- (c) raising awareness and understanding of religious beliefs and practices, including—
 - (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;
- (d) missionary and outreach work, including—
 - (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;
- (e) religious communication, including sermons and religious seminars, talks, meetings and conferences;
- (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 more than personal devotion; and
- (g) any other religious activity as authorised and governed by the laws of Kenya.

12. (1) A charitable organization shall be eligible for exemption on the basis that it is established for the advancement of education if the object of the charitable organisation is—

Advancement of education for public benefit.

- (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;
- (b) the provision of university education by a university or technical university as defined under the Universities Act;
- (c) the provision of technical, vocational education and training by an institution as defined under the Technical and Vocational Education and Training Act;
- (d) the provision of facilities and training or education of persons living with disability as approved by a relevant Government agency;
- (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);
- (f) the provision of school buildings, libraries or equipment for educational institutions engaged in the activities contemplated in paragraphs (a) to (e);
- (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), (b), (c), (d) and (e) subject to a recommendation by the Cabinet Secretary responsible for matters relating to education;
- (h) the provision of educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy; or
- (i) publishing or provision of school text books.

Cap. 211.

Cap. 210.

Cap. 210A.

(2) To qualify for exemption, a charitable organisation established for the advancement of education shall be required to prove that—

- (a) it is organised and operated exclusively for the advancement of education;
- (b) it meets the public benefit requirements provided in these Rules;
- (c) its educational services are accessible to the poor and needy;
- (d) it caters for educational needs for persons with disability and abandoned children; and
- (e) in the case of fee charging educational institutions, full scholarships are granted to at least ten percent of its student population who must be from poor and needy backgrounds and the selection criteria conforms to the requirements spelt under these Rules.

13. (1) To qualify for exemption, a charitable organisation established for the relief of the distress of the public shall be required to prove that—

Relief of distress
for public benefit.

- (a) it is organised and operated exclusively for the relief of the distress of the public; and
- (b) it meets the public benefit requirement provided in rule 8.

(2) For the purposes of this rule, the relief of distress of the public means—

- (a) the provision of disaster relief to victims of disasters including landslides, earthquakes, floods, wildfires, war, terrorism, accidental fires, drought and famine;
- (b) the prevention of deterioration of society through conflict resolution, including human-wildlife conflict, and environmental preservation that mitigates against climate change and desertification;
- (c) the care or counseling of, or the provision of education programmes to, abandoned, abused, neglected, orphaned or homeless children;
- (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;
- (e) the provision of housing assistance for the elderly and persons with disability;
- (f) the combating of community deterioration and juvenile delinquency;
- (g) the provision of healthcare services to the needy or persons experiencing poverty;
- (h) the provision of education institutions that cater for orphans, abandoned children or persons with disabilities;
- (i) the provision of rehabilitative care or counselling and education for prisoners or former prisoners;

- (j) the care or counselling of terminally ill persons or persons with a permanent severe physical or mental impairment or disability;
- (k) any other health care provider authorized and regulated by the relevant government authority;
- (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 and AIDS;
- (m) the provision of homecare services by healthcare providers to the needy or those who are critically ill;
- (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;
- (o) the provision to persons experiencing poverty with simple amenities necessary for a modest but adequate standard of living, and organising activities that promote social inclusion including care services for other dependents (including the elderly, critically ill, or otherwise disadvantaged household members):

Provided that these services are offered outside a healthcare facility;

- (p) the provision of school supplies to the youth who are experiencing poverty;
- (q) the payment of school fees or grant of scholarships for the poor and needy whether for local or international curricula; or
- (r) the operation of feeding programs for homeless people.

(3) A charitable organisation established for the relief of distress of the public through the provision of healthcare services and which charges fees shall, in addition to the requirements set out in rule 8—

- (a) maintain an open medical staff policy with privileges available to all qualified physicians including leasing available space to its active medical staff;
- (b) offer free outpatient and inpatient treatment to at least ten per cent of the total patient population, who shall be from the poor and most vulnerable members of the society, per accounting period:

Provided that the charitable organisation shall have criteria for identifying the beneficiaries; and

- (c) demonstrate that it allocates resources to cater for the general medical care of the poor and needy.

14. (1) A charitable organisation shall not distribute its income, directly or indirectly, to any person except for services rendered.

Expenditure and appropriation of income.

(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 allowance, superannuation allowance, retirement allowance, lump sum benefit payment and director's remuneration.

(3) There shall 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.

15. 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 tax law.

Participation in tax avoidance schemes.

16. A charitable organisation may accumulate surplus funds as desired, but it shall not retain more than an average of fifteen per cent of its funds in a period of three succeeding years without applying the surplus funds to its charitable purposes:

Accumulation of surplus.

Provided that the retained surplus funds retained shall not include gains and profits arising from business as provided for in paragraph 10 of Part 1 of the First Schedule to the Act.

17. (1) An application for exemption from income tax under these Rules shall be made to the Commissioner in the prescribed form and shall be accompanied by the following documents—

Applications.

- (a) a certified copy of the governing documents of the applicant including rules, constitution, trust deed, memorandum and articles of association;
- (b) a certified copy of the registration documents of the applicant;
- (c) audited financial statements of the applicant for the period of three years immediately preceding the application;
- (d) a schedule of assets of the applicant including the corresponding values of the assets;
- (e) certified copies of bank statements of the applicant for the period of three years immediately preceding the application;
- (f) an introduction letter detailing the name, nature and principal activities of the applicant from the office of the County Commissioner of the county where the head office of the organisation is located;
- (g) the applicant's impact report describing in detail—
 - (i) the past, present and future activities of the applicant; and
 - (ii) how the activities of the applicant are intended or have benefited the residents of Kenya;

- (h) the applicant's criteria for defining and selecting beneficiaries;
- (i) an itemised summary of the payments made by the applicant showing the payee, amount and purpose of payment;
- (j) certified copies of identity documents of all the relevant office bearers of the applicant;
- (k) proof of the applicant's physical address;
- (l) a copy of a valid tax compliance certificate and, in the case of an application to renew an exemption, a copy of the previous tax exemption certificate of the applicant; and
- (m) a letter of authority, power of attorney or appointment letter for the representative of the applicant.

(2) A charitable organisation applying for the exemption for the first time shall require to have been in operation for at least one year.

(3) An application for a renewal of exemption shall be made at least six months before the expiry of the current exemption.

18. (1) The Commissioner shall, where an applicant has complied with all the requirements of Rules, issue the applicant with a tax exemption certificate:

Income tax exemption certificate.

Provided that an exemption under these Rules shall be—

- (a) valid for a period of five years;
- (b) issued within sixty days of the lodging of the application where all the requirements have been met;
- (c) applicable as follows—
 - (i) for renewals, from the date of application or expiry of the earlier certificate whichever is later; and
 - (ii) for new applications, from the date of approval of the exemption

(2) Where an application for the tax exemption is declined, the Commissioner shall inform the applicant in writing providing the reasons for the decline.

19. (1) A charitable organisation shall at least once on each year submit an income tax return in the prescribed form.

Returns.

(2) Any amendments to a return submitted under sub-rule (1) shall be made in accordance with section 31 of the Tax Procedures Act.

Cap. 469B.

(3) Save as otherwise provided in these Rules, a return, application, notice, or other document required to be lodged or submitted under the Rules shall be lodged or submitted in accordance with the Tax Procedures Act.

20. (1) Where the Commissioner is satisfied that a charitable organisation exempted under these Rules, during any year of income—

Revocation of exemption.

- (a) in any material respect; or
- (b) has, on a continuous or repetitive basis,

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 serve the charitable organisation with a notice of intention to revoke the exemption.

(2) The notice of intention to revoke an exemption certificate shall—

- (a) state the reasons leading to the intention for the revocation of the exemption; and
- (b) provide a notice of thirty days within which the taxpayer may respond to the Commissioner's intention for the revocation of the exemption.

(3) Where the organisation responds to the Commissioner, the organisation shall state the reasons for non-compliance and any action taken to address the non-compliance.

(4) Where the Commissioner is satisfied that the charitable organisation has addressed the reasons for non-compliance, the Commissioner shall notify the organisation in writing that he or she no longer intends to revoke the exemption certificate.

(5) Where the taxpayer does not respond within the thirty days or where the Commissioner is not satisfied with the organisation's response, the Commission shall revoke the exemption certificate and notify the charitable organisation in writing of the revocation.

(6) A revocation of an exemption certificate under this rule shall take effect from the beginning of the year of income in which the grounds for that withdrawal arose or such later date as the Commissioner may determine, and any accumulated funds thereof shall be subject to income tax in the year in which the exemption is withdrawn.

(7) The provisions of this rule shall not, if the Commissioner is satisfied that the non-compliance giving rise to the revocation of the exemption certificate has been addressed, preclude any such organisation from applying for a fresh exemption in the year of income following the year of income during which the previous exemption was revoked.

21. (1) The Commissioner may, by notice in writing, require any person whom the Commissioner deems able to furnish information regarding any charitable organisation—

- (a) to answer any questions relating to the organisation;
- (b) to make available for inspection by the Commissioner or any person authorised by the Commissioner in that regard, any books of account, records or other documents relating to the organisation; or

Furnishing of documents.

- (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 authorised by the Commissioner in that regard, any books of account, records or other documents relating to such organisation.

22. A person who is aggrieved by a decision of the Commissioner under these Rules, may, within thirty days after the date of the decision and upon giving notice in writing to the Commissioner, appeal to the Tribunal. Appeals.

23. The Commissioner shall not issue an exemption to a charitable organisation which— Non-applicability of the Rules.

- (a) exclusively funds, donates or supports other charitable organisations without undertaking a charitable purpose; or
(b) has been exempted from tax under any other tax law.

24. Each charitable organisations granted an exemption from income tax under these Rules shall comply with the provisions of any applicable tax laws and these Rules. Compliance with other tax laws and the Rules.

25. (1) For the avoidance of doubt, gains and profits arising from business as provided in the proviso to paragraph 10 of Part 1 of the First Schedule to the Act shall not include gains and profits arising from unrelated businesses. Related and unrelated business income.

(2) A charitable organisation granted an exemption from income tax under these Rules shall obtain a separate Personal Identification Number For any unrelated business.

(3) The gains and profits from an unrelated business shall not be covered by the exemption granted to the charitable organisation.

(4) In this rule, “unrelated business” means any business by way of trade that is regularly carried on by the charitable organisation that is not carried out to support charitable activities provided under paragraph 10 of Part 1 of the First Schedule to the Act.

26. (1) Donations shall be paid out of the taxable income of the donor: Rules on donations.

Provided that:

- (a) the donation shall not result to a taxable loss; and
(b) not more than fifty per cent of the donations in any year of income shall be to unrelated entities.

(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 in the form of—

- (a) evidence of receipt of the donation by the exempt person under these regulations;
(b) approved project proposals and budgets submitted by the charitable organisation and approved by the donor;

- (c) a copy of the exemption certificate issued under these Rules;
- (d) approval by the Cabinet Secretary, where the project requires such approval; and
- (e) a declaration from the donee that the donation shall be used exclusively for charitable purposes.

(3) Evidence of receipt of donation shall be provided for any donation received from local or foreign donors, whether the donation is in cash or in kind.

- (4) For purposes of these Rules, donations made shall—
 - (a) be in cash or in kind and shall not be repayable, refundable or returnable to the donor under any circumstance;
 - (b) not confer any direct or indirect benefit to the donor or any person associated with the donor; and
 - (c) not be revoked once conferred upon a charitable organisation, unless approved by the Commissioner, in which case the tax arising from such donations shall be due and payable.

27. A charitable organisation exempted from income tax prior to coming into operation of these Rules shall be required to comply with these Rules within twelve months from the date of the coming into operation of these Rules.

Transition provision.

28. The Income Tax (Charitable Donations) Regulations, 2007, are revoked.

Revocation.
L.N. 101/2007.

Dated the 26th May, 2024.

NJUGUNA NDUNG’U,
*Cabinet Secretary for the
National Treasury and Economic Planning.*