

What is a bona fide donation?

A donation is a gratuitous and voluntary gift which is freely given to the recipient. It entails no quid pro quo or reciprocal obligations by the recipient to the personal benefit of the donor. If the recipient gives any consideration at all, then, it is not a donation.

VAT Implications for PBOs:

Domestic VAT

PBOs approved under Section 41 of the Income Tax Act are entitled to zero-rating on the following building materials:

- a) Roofing sheets;
- b) Cement;
- c) Blocks; and
- d) Bricks

To access this zero-rating, the PBO is required to apply to the Commissioner - General for zero-rating Local Purchase Orders attaching the following documents:

- Bills of quantities for the structure the PBO intends to build;
- Building plan for the structure;
- Copy of the letter of approval under Section 41; and
- Quotations for the cement, roofing sheets, bricks or blocks

PBOs are liable to pay VAT for all their other domestic purchases.

Import VAT

PBOs are entitled to exemption of VAT at importation for imported goods which enjoy remission, rebate or refund of duty under the Customs and Excise (General) Regulations subject to same limitations and conditions as pertain to the remission, rebate or refund of duty.

A PBO wishing to access this exemption should apply to the Minister of Finance for approval. The Customs Services Division will be instructed to configure on ASYCUDA World the approved list of goods.

Pay As You Earn (PAYE)

PAYE is the tax that an employer has to deduct from the remuneration that it pays to its employees. The employer must then pay this deducted employees' tax over to ZRA on behalf of each of its employees as a payment towards that employee's personal income tax liability.

A PBO will, therefore, have to register for PAYE and operate a PAYE Scheme.

Exemption Not Granted

A non-profit organisation, which has not been approved as a PBO, has to pay income tax and other taxes and duties as normal taxpayers.

For more information contact:

Call Centre: 4111
Email: advice@zra.org.zm
Website: www.zra.org.zm



Introduction

Public Benefit Organisations (PBOs) play a significant role in society as they undertake a shared responsibility for the social and developmental needs of the country, thereby relieving the financial burden, which otherwise falls on the State. Tax benefits are designed to assist PBOs by supplementing their financial resources and providing them with an enabling environment in which to achieve their objectives.

What is a Public Benefit Organisation?

The Income Tax Act (ITA), Cap 323 defines a PBO as an organisation which is-

- (a) a company limited by guarantee incorporated in the Republic under the Companies Act;
- (b) a trust incorporated under the Land (Perpetual Succession) Act;
- (c) an association registered under the Societies Act;
- (d) an educational institution registered under the Education Act;
- (e) a health institution registered under the Medical and Allied Professions Act;
- (f) an amateur sporting association registered under the Sports Council of Zambia Act; or
- (g) any association or organisation registered under the laws of Zambia;

exclusively established for the purpose of providing a public benefit activity.

“public benefit activity” means an activity listed in the Tenth Schedule to this Act and any other activity determined by the Minister, by notice in the Gazette, to be of a benevolent nature having regard to the needs, interest and well being of the general public;

PBOs are not automatically exempt from income tax unless specifically approved for this purpose by the Minister of Finance.

“approved public benefit organisation” means a public benefit organisation that has been so approved by the Minister of Finance in accordance with Section 41 of the Income Tax Act.

Who is eligible for approval as a PBO?

The Commissioner-General will only recommend an organisation for approval as a PBO if its sole or principal

object is to carry on one or more of the listed Public Benefit Activities in the Tenth Schedule to the Income Tax Act.

The application should be made to the Commissioner-General online through the ZRA web portal. The following documents, which must all be certified, should accompany the application:

- a. Copy of certificate of incorporation, if the entity is a company limited by guarantee or certificate of registration if the organization is a registered society under the Societies Act.
- b. Copy of the articles of association if the entity is a limited company by guarantee, or constitution if registered under the Societies Act.
- c. Copy of latest financial statements for organisations that are more than 12 months old or latest bank statements certified by the bank if the organisation is less than 12 months old.
- d. Provide proof of carrying out Public Benefit Activities (PBAs).

Requirements for approval to be enshrined in the founding document

- a. The objective of the organization must be in line with the requirements of the Tenth Schedule to the Income Tax Act Cap. 323.
- b. The assets of the organization, upon dissolution should only be transferred to an institution of similar objectives.
- c. AGMs and extraordinary meetings to be held in accordance with the regulations of the Companies Act.
- d. There should be no discrimination in providing the benefits from the organization.
- e. The funds of the organization should under no circumstances be remitted outside Zambia.
- f. No officer of the organization should have unfettered powers.
- g. The proof of carrying out Public Benefit Activities can be in form of recommendation letter from partners or photos of the activities done.
- h. Must be tax compliant on ALL registered tax types both return submission and payments

Branches of foreign charities

Where a charity which has been established outside the Republic, establishes a branch in the Republic for purposes of conducting approved PBAs, the branch may be approved as a PBO.

A precondition of the approval is that the foreign charity is exempt from income tax in its country of origin. The branch will be required to submit this confirmation together with a written undertaking to comply with the provisions of the Income Tax Act (ITA), insofar as the governance, funding and activities of the branch are concerned.

The Commissioner-General, if satisfied that the application meets the requirements will recommend to the Minister of Finance to have the application approved.

The Commissioner-General can also recommend that the application should not be approved.

Specific issues in respect of PBOs:

Income of a PBO

The income of a PBO is exempt from tax if established for the promotion of religion or education, or for the relief of poverty or other distress on condition that-

- a) in relation to the people of the Republic, its income may not be expended for any other purpose; and
- b) the Minister has approved the exemption from tax the income of that PBO.

However, if the income is the profit of a business carried on by a PBO, that income is not exempt from tax and shall be taxed at the rate specified in the Charging Schedule. Also any interest on treasury bills, government bonds, corporate bonds or any financial instrument or securities received by any PBO, shall be subject to withholding tax.

Income Tax Returns

All PBOs carrying on or engaged in business are obliged to render annual income tax returns, notwithstanding the approval which may result in no tax liability for the PBO. The return enables the Commissioner General to assess whether the PBO is operating within the prescribed limits of its exemption.

Tax deductibility of donations from taxable income

Government has recognised the need that PBOs are often dependent upon the generosity of the public and accordingly to encourage the giving of such alms, donations made to approved organisations conducting certain categories of PBAs may be deducted from the taxable income of the donating taxpayer.