



GRA

GHANA REVENUE AUTHORITY

Practice Note on Charitable Organisation under the Income Tax Act, 2015 (ACT 896)

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1.0 TAX LAW

The Commissioner-General is empowered under paragraph 2 of the Seventh Schedule of the Income Tax Act, 2015 (Act 896) to issue Practice Notes setting out the interpretations placed on provisions of the Act by the Commissioner-General. Accordingly this Practice Note is issued in respect of the taxation of Charitable Organizations with specific reference to Section 97 of Income Tax Act, 2015 (Act 896).

2.0 INTERPRETATION

In this Practice Note the word “Act” means the Income Tax Act, 2015 (Act 896). Definitions and expressions used in this Practice Note have the same meaning as they have in the Act.

3.0 THE PURPOSE OF THIS PRACTICE NOTE

This practice note is issued to give clarity to the provisions of the Act on Charitable Organizations and the issue of the public nature of such organizations as provided under Section 97 of the Act. It is also intended to provide guidance to taxpayers, tax practitioners, staff of the Ghana Revenue Authority and the general public on the processes and procedures by which an organisation or other body may obtain the approval of the Commissioner-General as a “Charitable Organisation” for tax purposes as provided under the Act.

4.0 APPLICATION OF THE LAW

4.1 Charitable Organization

The Income Tax Act, 2015 (Act 896) under Section 97, vests the authority to grant approval to an entity as a “Charitable Organisation” for income tax purposes in the Commissioner-General of the Ghana Revenue Authority.

4.2 Qualification as a Charitable Organisation

(a) Establishment

To qualify for consideration by the Commissioner-General as a Charitable Organisation, an entity must be appropriately registered by the relevant public

Agency (e. g. Registrar-Generals Department, Department of Social Welfare, Ministry of Youth and Sports, Environmental Protection Agency etc.) and must be established to operate as a:

- (i) charitable institution of a public nature;
- (ii) religious institution of a public nature;
- (iii) body of persons formed for the purpose of promoting social activities or sporting activities; or
- (iv) registered sporting club.

In effect the objects of the entity must include, but not limited to provision of service to, or conferring of benefits on an identifiable community or body or a section thereof with equal access to all intended beneficiaries.

(b) Constitution and Prohibitions

An entity that seeks the approval of the Commissioner-General as a Charitable Organisation must have a written constitution with express provisions that prohibit the entity from:

- (i) engaging in a political party activity, supporting a political party or using its platform to engage in party politics;
- (ii) any function other than those that the entity is established to operate; and
- (iii) conferring a private benefit on any person other than a benefit that is in pursuit of a function for which the entity is established

(c) “Public Nature”

An entity shall be regarded as being of “public nature” where, by its activities and operations, the entity

- (i) is open or accessible to the general public or a section of the public; and
- (ii) does not confer a private benefit on any person other than in pursuit of a function or activity that is in line with the objects of the entity.

The activities of the entity should not directly or indirectly be to the private benefit of the owner(s) or associates of the owner(s). The resources and income generated by the entity should not be assigned to, or distributed among the owner(s) or their associates. However, persons who earn income from their employment as employees of the entity are not regarded as receiving a private benefit from the activities of the entity.

5.0 EXEMPTION FROM INCOME TAX

The income accruing to or derived by a charitable organisation is exempt from tax. However the exemption from tax does NOT apply to business income accruing to or derived by the charitable organisation.

Thus income that accrues to or is derived by a charitable organisation from any activity that is in the nature of income from business as provided under section 5 of the Act is subject to tax in accordance with the provisions of the Act.

6.0 TAXABLE INCOME OF A CHARITABLE ORGANISATION

Below are examples of incomes of a Charitable Organisation that are subject to tax under the Act.

Income derived from engagement in business activities including:

- (i) Disposal of assets;
- (ii) Sale of goods;
- (iii) Provision of Services (such as hiring of venue and facilities)
- (iv) Selling of in-house expertise to interested persons (e.g. publishing, training and consultancy);
- (v) Operation of a Bookshop
- (vi) Operation of commercial transport, etc.

7.0 PROCEDURE FOR APPROVAL AS A CHARITABLE ORGANISATION

An entity seeking the approval of the Commissioner-General is required to:

- (i) Submit a written application to Commissioner-General for approval in the form provided by the Commissioner-General as specified in Appendix 1 attached.

- (ii) Attach to the application, the constitution of the entity which clearly spells out the specified prohibitions.

The Commissioner-General on being satisfied that an applicant meets all requirements for consideration as a Charitable Organisation, shall issue a Notice of Approval as a Charitable Organisation to the entity. The approval shall be for a specified period and may be renewable in accordance with the terms and conditions specified by the Commissioner-General in the Notice of Approval.

8.0 REVOCATION

The Commissioner-General may for a good cause, or for contravention of any required condition, revoke an approval as a Charitable Organisation granted to an entity. Revocation of approval as a Charitable Organisation may be for reasons including, but not limited to the following:

- (i) Engaging in party political activities including offering a platform for such activities
- (ii) Engaging in functions and activities that extend beyond the agreed scope upon which the approval was granted
- (iii) Conferring private benefits to the owners and their associates other than in furtherance of the objects of the entity
- (iv) Improper and (or) inappropriate behaviour including fraud, deceit
- (v) misrepresentation and non-compliance with other provisions of the tax laws.

Signed

Date 06/10/2016

**KWASI GYIMAH-ASANTE
COMMISSIONER – DTRD
FOR : COMMISSIONER-GENERAL**

APPENDIX 1

GHANA REVENUE AUTHORITY
APPLICATION FOR APPROVAL AS A CHARITABLE ORGANISATION
FOR THE PURPOSES OF INCOME TAX ACT, 2015 (ACT 896)

NAME OF ENTITY:

TIN:.....

GRA OFFICE:

DATE:.....

We wish to apply for approval as a charitable organisation under Section 97 of the Income Tax Act 2015, (Act 896) and hereby declare that:

- (i) We are appropriately registered with the Registrar General's Department:..... and
 - (a).....
 - (b)
 - (c).....
- (ii) We are not engaged in any political activity including offering a platform for political activities and do not intend to engage in any such activities.
- (iii) We are not engaged in, nor intend to engage in any other activity that contravenes Subsection 2 of Section 97 of the Income Tax Act, 2015 (Act 896).
- (iv) Our activities do not confer private benefits to our owners and associates other than in furtherance of the objects of our establishment as required under Subsection 2 of Section 97 of the income Tax Act. 2015 (Act 896).
- (v) We shall notify, declare and pay to the Commissioner General, the appropriate taxes on incomes arising from business engagements.

ATTACHMENT

We hereby attach copies of our registration documents and of our Constitution.

DECLARATION:

We/I do hereby declare that the information given in this form is true and accurate.

.....
NAME OF DECLARANT

.....
SIGNATURE

.....
DATE

FOR OFFICE USE

COMMENTS/RECOMMENDATION:

.....
.....

.....
Name of Officer

.....
Designation

.....
Signature

.....
Date

APPROVAL:

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.....
Name of Officer

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Designation

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Signature

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Date