



Tax Management for Public Benefit Organization – Kisii

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Introduction to Public Benefit Organization



Public Benefit Organization (PBO) (Section 5 (1))

- ❑ A voluntary membership or non-membership grouping of individuals or organizations, which is autonomous, non-partisan, non-profit making and which is:
 - (a) Organized and operated locally, nationally or internationally;
 - (b) Engages in public benefit activities in any of the areas set out in the Sixth Schedule; and
 - (c) Is registered as such by the Authority.

Introduction to Public Benefit Organization



Exclusions: section 5(2)

- (a) a trade union within the meaning of the Labour Relations Act, 2007(Cap. 233);
- (b) a public body established by or under any written law;
- (c) a political party within the meaning of the Political Parties Act, 2007(Cap. 7B);
- (d) a religious organization which is primarily devoted to religious teaching or worship;
- (e) a society within the meaning of the Societies Act (Cap. 108);

Introduction to Public Benefit Organization



- (f) a co-operative society within the meaning of the Co-operative Societies Act (Cap. 469);
- (g) a Sacco society within the meaning of the Sacco Societies Act (Cap. 490B);
- (h) a micro-finance institution within the meaning of the Micro-Finance Institutions Act, 2006 (No. 19 of 2006);
- (i) a community based organization whose objective include the direct benefit of its members.

Introduction to Public Benefit Organization



public benefit activity

☐ means an activity that supports or promotes public benefit by enhancing or promoting the economic, environmental, social or cultural development or protecting the environment or lobbying or advocating on issues of general public interest or the interest or well-being of the general public or a category of individuals or organizations;

Registration of PBOs (Section 6)



- ☐ All PBOs to be registered under PBO Act for them to enjoy benefits accruing under the Act
- ☐ No organization registered under any other law in Kenya shall be registered under PBO Act
- ☐ Registration of an organization under PBO Act, supersedes any prior registration of the organization under any other law
- ☐ An organization registered under this Act and under any other law, the organization shall be deemed registered under this Act and the other registration shall be deemed invalid

Registration requirements (section 8)



- ☐ Application for registration made to the PBO Authority

Application to be accompanied by:

- ☐ a copy of the constitution or other constitutive document of the public benefit organization;
- ☐ names and addresses of the founders of the PBO;
- ☐ the public benefit purposes for which the PBO is organized and operated and all other principal activities that the PBO shall engage in;
- ☐ the postal and physical address of the principal place of doing business of the PBO;
- ☐ the prescribed fees; and
- ☐ such other particulars or information as may be required by the Authority in order to assist the Authority to determine whether or not the organization meets the requirements for registration under the Act

Registration requirements (section 8)



International NGO may apply as a PBO by filing the following documents

- ☐ An application form;
- ☐ Proof that it's a legal entity in another country
- ☐ The organization's address in Kenya; and
- ☐ A written statement from a representative of the organization's headquarters with authority to provide such statement stating:
 - ☐ The purpose of the international NGO;
 - ☐ A general description of the activities that the international NGO is planning to carry out in Kenya; and
 - ☐ The name, address and other contact information of the authorized agent

Fiscal transparency (section 29 of PBO Act)



Every PBO registered under the Act shall:

- ☐ Implement internal accounting and administrative procedures necessary to ensure the transparent and proper use of its financial and other resources
- ☐ Utilize its financial and other resources for the attainment of its aims, objects and purposes

Accounts and reports (section 30 of PBO Act)



- ❑ Sec 30 (1); Every PBO registered under the Act shall keep proper books of accounts and other records in relation to its operations and activities and shall, subject to subsection (2), prepare annually a statement of accounts in a form which conforms to the standards of the generally accepted accounting practice applicable to non-profit organizations.
- ❑ Sec 30 (2); The financial statements prepared and submitted by a PBO, shall include an opinion signed by an independent auditor as to whether the financial statements present fairly, in all material respects, the organization's financial position for the reporting period.

Annual report (section 31 of PBO Act)



Within six months after the end of each financial year, every PBO registered under this Act shall cause to be made and submitted to the Authority:

- ☐ a statement of its accounts audited in accordance with section 30(2) above;
- ☐ a certified copy of its financial statements;
- ☐ a report dealing generally with the programme of activities of the PBO during that financial year.

THE END



Q& A