CHALLENGES AND RECOMMENDATION ON TAX ISSUES AFFECTING NOT-FOR-PROFIT SHARING ORGANIZATION (NPO's) SECTOR IN TANZANIA

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INTRODUCTION

The Not-for-profit organizations (NPOs) in Tanzania play a vital role in contributing to the National revenue collection through tax revenue, implementation of activities such as Advocacy and Awareness, Service Delivery, Capacity Building, Governance and Accountability, Policy Advocacy and Research, Social Innovation, Conflict Resolution and Peace Building, Environmental Protection and Sustainability, Community Empowerment, Civic Engagement, and Democracy.

Nonetheless of the contribution obtained from NPOs, the NPOs sector still face Taxation challenges in implementing their activities as recent challenges drawn from extensive engagement with more than 1500 Civil Society Organizations (CSOs) across the Nation between 2021 and 2023 as well as consultation with relevant stakeholders including Tanzania Revenue Authority (TRA).

The State of Nonprofit Sector Taxation in Tanzania's report offers a comprehensive analysis of the tax landscape affecting nonprofit organizations (NPO's in Tanzania. The report aims to provide invaluable insights into the current taxation polities and their impact on the Nonprofit Organisation sector, while also presenting recommendation for stakeholders, policy makers and NPOs themselves.

THRDC and NaCoNGO engaged in consultations with relevant stakeholders, such as nonprofit organization, the Tanzania Revenue Authority, and other government agencies, to collect their perspectives and recommendations. Over 2000 representatives from CSOs/NPOs participated in the discussion on the State of Nonprofit Sector Taxation. The survey was conducted in Dar es Salaam, Mwanza, Morogoro, Pwani, Rukwa, Shinyanga, Kigoma, Kilimanjaro, Tanga, Mbeya, and Singida.

These recommendations are drawn from a report on non-profit sector taxation of 2023 that engaged with over 2,000 Civil Society Organizations (CSOs) between 2021 and 2023, as well as consultations undertaken by THRDC and NACONGO with relevant stakeholders, including nonprofit sector associations and the Tanzania Revenue Authority (TRA) during the 2021, 2022 and 2023 NGOs Forums.

The following matrix highlights important tax challenges that emerged from consultation with CSOs/NPO's and other stakeholders.

S/N	ISSUES	CHALLENGES	RECOMMENDATIONS FOR AMENDMENTS
1	Registration of Not-for-Profit Organizations (NPOs) like other profit-making Taxpayers/Companies.	• The law does not differentiate between profit-making and non-profit making organizations. The tax regime in Tanzania has consolidated into one group NPO's/CSO's and other Taxpayers which are profit making while NPO's are not Taxpayers but are just tax collector on behalf of TRA. • The law mandates a newly registered NPO's to have an automated tax obligation after registration without taking into consideration that NPO's depend on donor funds to be established and operate. • There is no grace period for newly registered NPO's of which the system automatically starts counting as the Taxpayer immediately and retrospectively after being issued with TIN. • The system counts an NPO's as Taxpayer by considering the date an organization was registered even though an organization applies for a TIN two years after its registration.	• Under section 22(1) of the Tax Administration Act, 2015 should be amended relieving NPO's from requirements of having an automated Taxpayer Identification Number (TIN) immediately after registration. • The TRA registration system should have options for NPO's and profit-making organizations within their system to differentiate NPO's and Profit-making organization. Only profit-making organizations and companies may continue using the automated system of Taxpayer Identification Number (TIN) immediately after registration.
2	Bureaucracies in Grating NPO's Charitable Status.	• Many NPO's have been facing difficulties in obtaining a ruling of the TRA Commissioner General and being informed that they are not eligible for a certificate of charitable status without justifiable reasons. • TRA system does not grant NPO's charitable status automatically until it is applied. • The provisions for eligibility are also very ambiguous and invites lots of individual interpretations on which NPO	• Under section 64 of Income Tax Act should be amended replacing the word "Public character" with "Non-profit sharing" • The definition of a charitable status should be aligned with the definition of an NGO as defined under section 2 of the NGO's Act as amended by the written laws (Miscellaneous Amendments) No. 3 Act, 2019 which defines that "Non-Government Organization which also known by its acronym "NGO" and which includes Community Based Organization

		Qualifies to be granted a certificate of charitable status.	(CBO) means a voluntary grouping of individuals or organizations which is non-partisan or non-profit sharing established and operates for the benefit or welfare of the community or public, organized at the local, national or international levels for the purpose of enhancing or promoting economic, environmental, social or cultural development or protecting environment, good governance, law and order, human rights and lobbying or advocating on such issues. • The law should be amended and put obligation and timelines for responding with strong reasons for rejected applications. • The qualification for being granted charitable status should be reviewed and expanded to cover all key actors.
3	Regular change of Tax regimes/Laws	• Regular changes of Tax laws and regulations disrupt the financial planning of NPO's or CSO's. TRA tendency of not engaging NPO's from early stage during making changes of Tax laws or other regulations.	• Inclusion of CSO's or NPO's from early stages in case there is a need for an amendment of the Income Tax Act and related laws of which such amendment may affect CSO's/NPO's. • CSO's propose the establishment of TRA/NPO's Annual Tax Review Forum to discuss Tax issues may arise during the year.
4	Filing of Returns	• Many NPO's do not have the funds to hire experts for Tax compliance. • The new electronic system has so many challenges itself that affect the stability of the tax compliance on the part of NPO's sector. • The law has made it compulsory for all NPO's to use the Taxpayer online portal system without considering the nature of CSO's operations.	• The law should be amended to remove or minimize penalties and interest for NPOs that have failed to use the system to provide information, especially those non- funded NPOs. • The Online system has to be reviewed and remove automated options for taxpayers. NGOs with no grants should be given an option to stay dormant in the system and avoid monthly filling of zero return.
5	Filing Annual Taxable Income (Corporate Tax)	• Requirement for Certified Financial Statement as a requirement to be able to file Annual Taxable Income while most of NPO's operating voluntary and fails to engage expertise to prepare it.	• This legal requirement of submitting tax returns with certified accounting statements should be waived against NPOs because NPOs don't make any profit and hence are

		• NGOs can't file an estimate of Tax payable for the year while in fact an NGO/NPO receives only grants from donors and not income. • The challenge here is a word 'income", NPOs don't have income but grants. Any Grant that cut cross one year to support another year activities are not an income or profit to be taxed. • Further, NPOs operate in a very dynamic and unpredictable funding environment. Filing of returns enables them to communicate various changes and keep the Commissioner always updated. However, the implementation of this E-fillings monthly has proved to be a serious challenge to CSOs, as a result many NPOs have automatically generated penalty and interest for failure to communicate with the system monthly. • Failure to submit tax return by the due date and pay Tax (if any) attracts penalty and interest accordingly under Section 76 and 78 of the TAA of 2015. • Forced to pay corporate tax	not eligible or not supposed to pay 30% of their annual grant. Donor Grants are not annual income or profit at all. • Most of the NPOs do not have financial statements to be audited at the end of the year and regarding operating voluntary with no funds sometimes NPO's have no fund to pay for financial statements preparation or engaging expertise/ consultancy. • There should be a mechanism in place to detect NPO's with grants and those without grants. • The law should be amended and exclude non-profit organizations from paying corporate tax. • The process of differed income should be made officially in the law as another way of avoiding corporate tax in NGOs grants that cross from one year to another.
6	Lack of Taxpayer segregation data	• NPO's/CSO's being one of the big sectors that contribute to the revenue collection in Tanzania through external grants and importing foreign currency in the country but are not seen in any tax collection data provided by TRA.	• TRA is advised to develop a system that will capture CSO's/NPO's contribution in National revenue monthly and annually. • TRA should always provide information on tax collection with segregated data to inform the Taxpayers given the fact that TRA has different sources of tax revenue.
7	Taxable Volunteers Allowances	• Under CSO's/NPO's volunteers, interns and field workers are subject to Pay As You Earn "PAYE". This may limit opportunity for the organization to provide	• Interns and volunteers under nonprofit sharing organizations should be exempted from Pay As You Earn "PAYE" tax. This will provide a wider room for graduates to work with CSOs as part of practical learning.

		room for fresh graduate to learn and may be to reduce number of youths of non-productively.	• The law can provide a specific period for interns and volunteers to be employed without paying PAYE. Could be one to two years.
8	Non-inclusion of CSO's/NPO's representatives in the National Plan and Budget	• Under section 15(2) of the budget Act, 2015, the composition of the National Plan and Budget Guidelines Committee shall be prescribed by the Minister in the Regulations. Regulations do not recognize a representative from the CSO's/NPO's sector.	• Advised the regulations should be amended to the extent that the composition of the National Plan and Budget guidelines Committee should include Representative from CSO's/NPO's.
9	Multiple interpretations of Tax Laws on NPO's issues	• Different interpretation among tax officers from different tax authorities such as TRA, Local Government authorities leading to inconsistent application of tax laws across different NPO's.	• Advised to provide more training to TRA Officers in relation to Taxation of the NPO's sector. • CSO's/NPO's propose to have a specific regulation on Taxation of the NPO sector.
10	Tax awareness among CSO's	• Since TRA provide a tax education together with other Taxpayer such as companies leading to difficult for CSO's/NPO's to differentiate tax obligation under NPO's and companies.	• Advised TRA to provide ongoing CSO's tax education initiatives between TRA CSO's Taxpayers. • The CSO's Tax Tool Kit should be reviewed and shared with CSO's nationwide and encourage more trainings and dialogue between TRA and CSO's.
11	Tax audit and penalties for delayed tax returns	• NPO's requirement to file returns every month puts addition pressure on CSO's with no grants for the period of return.	• Under section 78 (1) and (2) of the Tax Administration Act should be amended deleting the requirement of monthly penalty for failure to submit monthly returns for NPO's that have not secured grants. • The law should focus on creating a conducive environment for NPO's operations and not focusing on fines or penalties. The law should all flexibility of NPO's to pay only the principal Tax especially for those who receive grants. • If penalty and interest are imposed against an NPO and if the penalty is paid using donor grants, it means that such a NPO is at the risk of loosing grant from such donor on the next project.