



NGO REGISTRATION IN ZANZIBAR.

The forms of NPOs in Zanzibar that are most likely to receive US-donor support are societies and companies limited by guarantee. While “NGO” is a much-used term in Zanzibar, Zanzibar does not actually have a formal legal framework governing NGOs. Rather, “NGOs” are registered under and must abide by the Societies Act, which does not use the term “NGO.” The sections of this Note devoted to Zanzibar will explain the relevant issues for the “society” and “company limited by guarantee” legal forms, with the understanding that the rules relating to “societies” also likely apply to “NGOs” in Zanzibar if a potential grant recipient self-identifies as an “NGO.”

The pending NGO bill aims to officially recognize NGOs as a form of non-profit entity, and thus will impact the relevant legal frameworks in Zanzibar if adopted.

Society: The Societies Act, 1995, does not define a “society.” Rather than identifying key characteristics of a “society,” the Act states that an organization is considered a “society” if it properly follows registration procedures laid out in the Act (The Societies Act, 1995 Section 3).

Company limited by guarantee: a company whose members’ liability is limited by memorandum (The Companies Act, 2013 Section 3(2)(b)).

Companies limited by guarantee must adopt the standard articles of association provided under Table C of Zanzibar’s Companies Act, 2013.

The laws governing NPOs in Zanzibar are:

The Constitution of Zanzibar

The Societies Act, 1995

The Companies Act, 2013

The Companies Regulations, 2017

The Zanzibar Business and Property Registration Agency Act, 2012

The Tax Administration and Procedures Act, No. 7 of 2009

The Income Tax Act, 2019

The Value Added Tax Act, No. 4 of 1998

The Excise Duty Act, No. 8 of 2017

Distribution of Profits:

Societies: The Societies Act, 1995 does not explicitly prohibit the distribution of profits to a



society's members. However, a local expert explains that the requirement that societies only use funds to further their stated objectives (The Societies Act, 1995 Section 32), read together with the general understanding that societies must operate for the benefit of the community or public, is understood to mean that societies may not distribute any profits to their members.

The Societies Act, 1995 also does not impose any restrictions on societies' employee salaries or expenses.

Companies limited by guarantee: Companies limited by guarantee may not distribute dividends to their members. Moreover, income generated must be used to promote the objectives of the company (The Companies Act, 2013 Section 8). The law does not impose restrictions on a company limited by guarantee's employee salaries or expenses.

Dissolution of an NPO

societies: Dissolution of societies may be voluntary or involuntary. Members of a society may initiate the dissolution of an organization through a three-quarters vote in favor of dissolution (The Societies Act, 1995 Section 38).

Alternatively, the Registrar of Societies may cancel the registration of a society on certain grounds, including if the Registrar believes the society is likely to pursue or be used for any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare, or good order, or which is likely to engender racial hatred; the society's rules are repugnant to or inconsistent with law; or the society contravenes its own governing rules (The Societies Act, 1995 Section 13). A society may appeal the cancellation of its registration before the Zanzibar High Court within 21 days from the date of the cancellation (The Societies Act, 1995 Section 16).

The Minister responsible for societies may also revoke the registration of a society, provided that the Minister notifies the society of its decision at least 21 days in advance of the planned revocation, and provides the society with the opportunity to show that it should not lose its registration. The Minister must also demonstrate a sufficient effort to determine that the society must be de-registered in accordance with the Societies Act. A society typically cannot appeal the Minister's decision unless the Minister has abused his power to revoke the society's registration, in which case the society may appeal the decision to the High Court within 14 days of the Minister's decision (Zanzibar Societies Act, 1995 Section 14).

Upon dissolution, a society's assets are put towards its remaining debts. The Registrar of Societies shall specify a scheme of distribution of remaining assets (The Societies Act, 1995



Section 37(2)).

Companies limited by guarantee: A company may voluntarily wind up in the following circumstances:

1. The set period of existence specified in the company's founding documents has concluded, or if the founding documents specify an event that triggers the company's dissolution and that event has occurred;
2. The company passes a special resolution to begin winding up; or
3. The company passes an extraordinary resolution stating that it cannot continue its business and it is advisable to wind up due to its liabilities (The Companies Act, 2013 Sections 224-25).

A company can appeal an unfavorable decision to the Minister of Trade and Industry within 21 days of the decision (The Zanzibar Business and Property Registration Agency Act, 2012 Section 8(2)).

Upon dissolution, a company's assets will be put towards its remaining debts. The Zanzibar Business and Property Registration Agency will distribute any remaining assets to another company with similar objectives (The Companies Regulations, 2017 Section 38(2)).

A. Tax Exemptions

In both Mainland Tanzania and Zanzibar, all forms of NPOs (e.g., NGOs in mainland Tanzania, and societies and companies limited by guarantee in Zanzibar) may enjoy a partial income tax exemption by obtaining "charitable" or "religious" organization status. An NPO must submit an application to the Commissioner-General of the Tanzania Revenue Authority to be recognized as a "charitable" or "religious" organization. To be considered a "charitable" organization, an NPO must be established and function solely as an organization for (i) the relief of poverty or distress of the public; (ii) the advancement of education; or (iii) the provision of general public health, education, water or road construction or maintenance (The Income Tax Act, 2019 Section 64(8)(a)).

"Charitable" or "religious" organizations are granted a tax exemption for the following types of income:

All income that is applied towards the organization's activities that relieve poverty or distress of the public, advance education, or provide for public health, education, water, or road construction or maintenance, where these activities provide reasonable benefits to residents in the United Republic of Tanzania; and

Twenty-five percent of the organization's income is from its charitable business (The Income



Tax Act, 2019 Section 64).

Any income that a “charitable” or “religious” organization receives that is not put towards its activities during the year will be treated as taxable income.

B. Deductibility of Donations

In Zanzibar, gifts to “charitable” or “religious” organizations may be deducted from an individual’s or entity’s income for the purposes of calculating taxable income (The Income Tax Act, 2019 Section 16(1)(a)). The deduction to the income tax shall not exceed two percent of the income, as calculated under Sections 7 through 9 of the Income Tax Act. Individuals and entities may also claim deductions from the income tax for contributions made to the AIDS Trust Fund and other Tanzanian Government initiatives to fight against COVID-19 (The Finance Act of 2020 Section 31). This deduction does not apply to donations to private sector or NGO efforts to combat AIDS or COVID-19.

Customs Duties, Excise Duties, and Value-Added Tax

Certain goods and services, including those imported by international organizations or aid agencies, are exempt from the excise duty (The Excise Duty Act Third Schedule). Imports by societies and companies limited by guarantee are not included in this list of exemptions from Zanzibar’s excise duty. The Excise Duty Act does not lay out a procedure to claim the exemption, but in practice, the Zanzibar Revenue Board adopts the same procedure as the Mainland has in place for claiming customs duty exemptions, noted above.

The VAT rate is 15 percent. The threshold for VAT registration is a taxable turnover of over TZS 50 million (approximately USD 21,500). Foreign grants are not subject to VAT or similar taxes. As in Mainland Tanzania, the importation of certain goods and services are exempt from the VAT, such as those that provide relief from natural calamities and disasters or contribute to government-approved projects on health, education, water supply, and infrastructure (The Value Added Tax Act, No. 4 of 1998 Third Schedule).