CREATING AN ENABLING ENVIRONMENT FOR PHILANTHROPY THROUGH TAX INCENTIVES

A Collaborative Initiative between KCDF & Strathmore Tax Research Centre

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**Background**

KCDF is a public philanthropic foundation that supports sustainable community driven development. KCDF’s theory of change is based on the premise that systemic and enduring change is possible when communities are able to initiate and drive their development agenda by working with governments and other actors to access basic rights and services as well as harness and grow their own resources.

Strathmore Tax Research Center (STRC) is a semi-autonomous research center housed by the Strathmore Law School. It was formed in 2013 by Daisy Ogembo-Adongo, whose intention was to create a highly regarded and dependable hub of credible and cutting edge research as well as relevant and niche training in tax law, for the benefit of the government, the private sector, civil society, academia and, citizens of Kenya.

KCDF and STRC have collaborated on a research initiative that aims to establish evidence to support multi stakeholders’ advocacy for the realization of an enabling tax environment that promotes sustainable local philanthropy.

Kenyans have overtime demonstrated the ability to identify local solutions to the development challenges that affect them as well as mobilise the local resources necessary to execute those solutions. This is evidenced by the vast success of the long-held tradition of harambee (pulling or working together). The harambee spirit has been clearly demonstrated in how communities address social problems both at the family and community level. In recent years, the private sector driven Kenyans for Kenya Campaign united Kenyans from all walks of life to raise significant sums of money through mobile phone money transfer platforms, realizing, as at October 2011, over KShs. 600 Million towards relief and emergency support to for Kenyan citizens badly affected by the prolonged drought and famine. The We are One Campaign, in response to the Westgate Mall disaster also successfully raised slightly over KShs. 100 Million over just one month period, for victims of the Terror Attack. These are just but to examples of the many thousands of local harambee initiatives that take place in Kenya several times over, are a clear testament of the successes in pulling resources together.

This generous nature of Kenyans exhibited in the two recent initiatives highlighted above is indeed laudable and points to the possibility of leveraging on Kenyan’s giving nature from ad-hoc and needs-based giving, commonly known as charity, to a more strategic form of giving (also known as philanthropy), which can be defined as:

> “…structured donations through which donors seek to achieve specific goals and outcomes for systemic social change.”

This distinction is discussed by Ngondi-Houghton, C and Kingman, A in a chapter in the book, *Giving to Help, Helping to Give* as follows:

> “There is giving whose purpose is to ameliorate suffering or deprivation, or to realize the fulfillment of an immediate pressing need of the intended recipient; and there is the giving whose purpose is to further social causes aimed at transforming society towards restructuring social power grids, enabling people to assert control over their lives, and to participate in their societies in meaningful and effective ways which in turn produce better lives for all. The former is mostly charity, though ameliorative giving can be philanthropy if it is organized, consistent, and linked to structural interventions; and the latter is philanthropy.

Traditionally, Kenyans have manifested spontaneous and sometimes ad-hoc charitable acts of giving based on deeply personal motivations, intended to meet immediate needs of their family members, friends, and even fellow Kenyans. In the mean-
time Kenyan Public Benefit Organisations (PBOs) have been turned attention and focus towards other international funding agencies, philanthropists and foreign governments for regular and structured funding for the various development projects that they design and implement across the country. Notwithstanding the great success in the harambe model, Kenyans have not been viewed in the past as a long-term and sustainable source of regular and structured local funding that could substitute other international sources in ways that can as well sustain the development programs implemented by Kenyan PBOs.

Whilst looking to other external sources of funding has been largely successful, certain socio-political realities have occasioned a growing public discussion around its sustainability, hence the need to engage more in local fundraising, in order to complement the funds raised internationally. There have been intimations by the new Kenyan government that it may move to cap the percentage of funds that PBOs can raise abroad. In addition, foreign donor funding is on a steady decline, partially as a result of global economic challenges and, a belief in some quarters that international donor funding has not made the significant change that it was intended to make. Against this backdrop, the discussion on local fundraising and leveraging on the already-existing culture of giving (harambee), in Kenya, is one that can no longer be put off.

In an effort to understand the current tax provisions with respect to philanthropy, several Kenyan PBOs came together (as a Philanthropy Working Group) to gain a deeper understanding of the policy and legal landscape and how that relates to the growth and sustainability of philanthropy for development. The effort also highlighted gaps in the knowledge and public appreciation of the environment, hence, making a case for this research.

To deepen understanding of the potential benefits of an enabling legal and fiscal environment for philanthropy in Kenya, KCDF in a collaborative partnership with STRC, decided to carry out a qualitative research targeting private sector, private individuals, public benefit organizations and the government to find answers to key questions that included, whether or not citizens had any awareness of the existence of tax and other non-tax incentives that could enhance their giving. Other questions for inquiry were whether or not local PBOs were concerned about local philanthropy and if that was affirmative, what hindrances they have faced in their attempt to utilize that window of opportunity. These questions are organized into four specific objectives as enumerated here below. The study took a period of three months i.e. from December 2013 to March 2014.

Summary of the Literature Review

Several pieces of literature were reviewed in the course of the study and the two main pieces of literature reviewed are summarized here below.4

a. Mutie, P; The State and Nature of Philanthropy in East Africa; East Africa Association of Grant Makers; Nairobi; June 2012

This study was a review of the tax environment for philanthropy in East Africa. The methodology comprised of the review of secondary data and key informant interview. Most respondents cited lack of credibility among not for profit organizations as a major disincentive for giving. In addition the respondents stated that greater fiscal incentives would not necessarily result in greater giving because they did not trust the public benefit organisations. Only 33% of those who responded identified ‘Unfriendly National Tax Laws on Charitable Giving’ as a great challenge to their giving. The rest of the respondents did not see it as a challenge at all.

Some of the gaps identified in this study that merited further investigation into the topic included the fact that the number of respondents although varied, was limited to 25. In addition the emphasis was mainly on corporate respondents, leaving out individual givers. Further, the study did not seek to determine the level of awareness about existing tax incentives, among a cross section of potential charitable givers and whether or not local charitable organizations are interested in pursuing local philanthropy. Finally, the study did determine

4 For a comprehensive list of the literature reviewed, please see the Bibliography section.
the level of ease with which charitable organizations apply for and obtain tax exemption certificates.


The methodology comprised of both surveys (using questionnaires) and Key Informant Interviews. The findings of this study can be summarised as follows. Tax benefits for public benefits organisations are a progressive idea because the public benefits organisations sector is supporting government in development. By offering incentives to these organisations, the government would be meeting them halfway. In addition, the respondents felt that incentives would help Kenyans organise how they give, and the monitoring by the Kenya Revenue Authority that would come with tax benefits would assure givers that their money is going to the targeted beneficiaries. Further, respondents were of the view that these incentives would enhance equality because its redistributive factor will not be inhibited by politics. In addition, respondents expressed frustration by the fact that the available benefits are few, narrow and exclusive leaving out many important public benefits organisations and activities and the fact that the process of application for tax exemptions is long, tedious and ineffective and defeats the whole purpose.

Another finding was that there is deficit of integrity in the sector and the country generally and broadened tax benefits might open up space for abuse e.g., tax avoidance which is not well dealt with under Kenyan law. In addition, there is the challenge that there is no statistical proof that the benefits are worth the while of the loss to the fiscus. There is danger in delegating to individual donors decisions of the use of revenue that otherwise belong to all Kenyans through the government. How can it be ensured that the purposes supported by individual donors are what would otherwise have been government, and therefore public priority? Finally, there is little knowledge of taxation amongst majority of Kenyans. Few want to pay taxes or to be visible to the tax man and tax compliance levels are still relatively low. Increased incentives only further complicate an already complicated system. Some of the gaps identified in this study that merited further investigation into the topic included the fact that the return rate with respect to the questionnaires was very low, and therefore the results may not be as representative as intended or desired. In addition, the study was carried out before the Charitable Donations Rules under the Income Tax Act were enacted.

Assumptions

At the beginning of this study, the following were the assumptions on the topic:-

a. That an enabling tax environment encourages local giving, be it through, tax policy and legislative reforms, increased awareness or advocating for implementation of existing legislations.

b. Tax incentives for philanthropy strengthen and enhance the culture of philanthropy among individuals and to support communities in building assets for social development.

c. The main beneficiaries of an enabling tax environment for philanthropy will be the Kenyan public and charitable organisations.

d. The main barriers to the utilization of existing incentives are lack of awareness on the part of charitable givers, lack of interest in local philanthropy on the part of charitable organizations, and administrative barriers on the part of the revenue authority.

Possible Limitations

The possible limitations that we identified included:

a. Some respondents may decline to be interviewed or divulge personal information;

b. Some respondents may choose to ignore the questionnaire sent to them
Overall Objective of the Research

The overall objective of this qualitative research was to enable all interested parties and stakeholders to gain a better understanding of the state of philanthropy in Kenya and the role that tax incentives play in promoting philanthropy in Kenya through an analysis of the awareness, interactions and attitudes of both PBOs and recipients of charitable giving, with existing tax incentives.

Specific Objectives

The specific objectives were to:

a. Assess whether PBOs view local philanthropy as an important source of funding and whether they consider tax incentives as a critical factor in promoting local philanthropy;

b. Assess the interest of recipients of charitable donations in applying for tax exemption certificates and the challenges they face in the application process;

c. Assess whether, and how, tax incentives motivate organisations and individuals engaged in local philanthropy;

d. Propose possible practical interventions that can enhance both the supply and demand side of a vibrant philanthropic sector while building on the findings of the three key specific objectives highlighted above.

Research Methodology

The data that forms the basis of the findings of this qualitative research was obtained through surveys administered to PBOs, key informant interviews and focus group discussions. In addition, a stakeholder validation workshop was conducted in order to present and validate the findings of the research. The feedback received from all the data collection methods was incorporated in the final report.

Sampling and Sampling Design

To get a fair representativeness across the populations of study, the study adopted stratified random sampling. This involved breaking down the population into different sub-groups based on the area of focus and the selected regions. The sample would then include representation from all the stated regions and the areas of focus. The sampling frame for this research was obtained from a comprehensive list of Public benefit organisations operating in the country obtained from the CSO Reference Group, lists obtained from EAAG, Act!, UNDP Amkeni Wa Kenya, World Vision and Elimu Yetu Coalition.
**Objective 1:** Assess whether Public Benefit Organisations view local philanthropy as an important source of funding and whether they deem tax incentives as a critical factor in promoting local philanthropy.

Kenyan Philanthropy

“Kenyans are philanthropic but you must pick something that speaks to them such as sick child; people give to emotive things and disasters.”

“Philanthropy is taking place it is just the scale that is not wide; most people have given to harambees for funeral, medical bills and education. You are helping people but what is the scale?”

“There is philanthropy in Kenya but it is different from the West. We come from a culture where we support each other and not necessarily in a structured manner. In the West there are structures but in Kenya family and social needs force us to channel resources towards a cause.”

Kenyans are charitable. This was the unanimous response received from every single person interviewed. The examples that were received included the infamous national funds drives such as the historic Kenyans for Kenya which raised millions of starving Kenyans in Northern Kenya as well as the We are One campaign that raised millions of shillings for Kenyans injured in the tragic Westgate Terror Attack. Some examples, not as historic but nonetheless noble, included paying school fees for relatives, contributing to medical funds drives, giving alms to the poor, paying tithe to churches, donations to children’s homes during holiday seasons, participating in various Walks and Runs, and contributing to weddings. The respondents interviewed felt that these acts of charity are so significant that many people curve out a portion of their income specifically for these needs, for some, up to 50% of their income.

Indeed, during the Focus Group Discussions, many participants were of the view that Kenyans give generously to causes that have touched their hearts and therefore, respond to emotionally moving stories, accidents, or incidents. Many respondents felt that the plight of children is a particularly popular cause, as well as medical emergencies and education. Other causes that are equally important such as human rights or governance are viewed negatively or neutrally and therefore do not receive much attention.

Despite the fact that all the respondents agreed that Kenyans are generous in their giving to those in need, it was difficult to find any public benefit organisation that is fully or significantly maintained by local funding. Most organisations are either fully or significantly (over 90%) funded by international organisations or foreign governments. Indeed, many organisations, it seems, would wrap up if the foreign source of funding were to be suddenly withdrawn. This, of course, puts Kenya in a very difficult position, and poses a huge danger especially in sectors such as health and education that are largely funded by foreign organisations. One respondent, working in the health sector, pointed out that Kenya’s health sector is so heavily funded by international agencies that if this funding was to be withdrawn, even basic services such as blood transfusion would collapse.

Based on the distinction between charity and philanthropy discussed above, it can be argued that Kenyans are charitable, but not philanthropic. The culture of giving generously to immediate and deeply pressing needs, although deeply entrenched and laudable, has not, in the past, been leveraged upon in order to produce organised and consistent giving that is linked to structural transformation.

The reasons behind this are numerous and varied. Some respondents were of the view that the charitable nature of Kenyans is intrinsic in Africans as a result of culture. The African culture encourages social support for those who are in need. It also encourages the idea that a child belongs to the community and therefore if a child is in need, the entire community should step in. Some respondents went as far as suggesting that many Kenyans believe that one would be calling a curse upon themselves if
they did not help members of the society in need. Therefore, structuring such a system would appear to most as “unafrican” or as an attempt to structure social interactions. One respondent argued that Africans enjoy their informal social interactions and have great difficulty with structures such as keeping time, making appointments before visiting relatives, or making brief speeches! She suggested that this spills over into the philanthropy space where most people would prefer not to structure their giving, leaving it, instead, to deeply personal motivations when the need arises. One respondent suggested that structured philanthropy is an alien concept to many Kenyans. It is a Western idea and practice and it will need to be domesticated and modified before Kenyans can understand and embrace it.

Another reason that seemed to be popular among the respondents interviewed was that poverty is a major incentive for charity. According to UNICEF, 75-80% of Kenyans live in the rural areas. In addition 50% of the population is below 15 years of age and more than half of the population lives below the poverty line. What immediately stands out from these statistics is that Kenya faces a high dependency burden. With over half the country living below the poverty line, it is very possible that each Kenyan has at least one person, outside their immediate family, who depends on them for medical assistance, education assistance or financial assistance to meet their daily needs. This means that Kenyans are already so heavily burdened by these social needs that they do not have extra resources to channel into structured giving.

A related reason is the fact that the Kenyans who live below the poverty line depend on their family members and friends because the social security framework is virtually non-existent. Compared to countries like the Netherlands where even the unemployed receive government funding, Kenya does not have a functional social support system, forcing the vast poor population to depend on the percentage of those who earn more. Indeed, it can be argued that Kenyans are each other’s social security system. Many citizens expressed that this satisfies their conscience when it comes to charitable giving and would argue that structured philanthropy would place a heavy burden on their already burdened wallets.

Some respondents were also of the view that Kenyans do not give in a structured way because they do not know how and to whom to give. One respondent argued that if the country had proper simple structures and information for those who would wish to give, more people would do so. She explained, for example, that if the government had a list of priority areas together with a list of credible public benefits organisations working in those priority areas, and a simple, easy to understand platform through which one can channel support, more Kenyans would be willing to give. She argued that even making use of Information Communication Technologies such as Mpesa (mobile money platform) and e-payment systems through debit and credit cards, that require minimal effort on the part of the giver, would encourage more people to give since they can do so at the click of a button. The key ingredients here are information, simple processes, and credible organisations.

Another response received indicated that most Kenyans do not view themselves as donors or development partners because of the traditional meaning, construct or understanding of this term. For decades, most developing countries associated the terms “donor” or “development partner” or “funder” with a wealthy benefactor, organisation, agency or country from the wealthier Western part of the world. It is only in recent years that terms such as community philanthropy or local philanthropy have emerged in this part of the world. In addition, it is now that extremely wealthy and successful indigenous organisations are emerging and setting up Foundations for philanthropy or engaging in Corporate Social Responsibility (CSR).

Some respondents were of the view that many CSR activities are actually marketing strategies and will therefore not often be long-term, sustainable or strategic. For some corporate entities, the primary goal is product placement, or brand building. This means that these organisations will not always necessarily give to priority areas if those areas are not considered ‘strategic’. They will give to areas that receive the most attention and, just like the ordinary citizen, give to deeply moving stories or events publicized by the media. However, some conversations have begun in Kenya amongst some corporate foundations.

5 www.unicef.org/kenya/overview
on how to move from Corporate Social Responsibility to Corporate Social Investments.

Finally, there was also a general view that structured giving would still not benefit organisations that deal with causes that are not widely embraced, accepted, or understood such as the arts, human rights, and social justice.

In summary, while Kenyans are certainly very charitable, this charitable nature has not been leveraged upon in order to encourage sustainable philanthropy. This means that philanthropy, which is a large source of income for public benefit organisations and social enterprises, has largely been left to international donor agencies and international philanthropists. Many public benefit organisations are deeply involved in and provide critical support to crucial sectors such as health and education. It is dangerous to leave such sectors in the hands of international donor funding, which, by all accounts is rapidly decreasing. Dealing with the loss of important international donor support in these crucial sectors, as a result of geopolitical shifts in donor priorities would be extremely difficult if the country will not have in place proper structures to ensure sustainability through local philanthropy.

"Civil society, because of its focus on public benefit, its connection to the citizenry and its ability to draw on private resources for public welfare, has increasingly been tapped to perform a growing number of critical functions, from delivering vital health and social services to empowering disadvantaged populations, drawing public attention to emerging societal needs and providing opportunities for religious, cultural and artistic engagement."6

The uptake of the concept of local philanthropy to support civil society in Kenya is crucial to the development of Kenya and to the sustainability of public benefit organisations carrying out important work in the country. There are numerous ways of encouraging the transition from charity to structured philanthropy. Some interventions would have to come from the government while others would come from civil society. The interventions vary in nature and include policy, legal and social interventions and are discussed further in the last section of this report.

Local Fundraising

The public benefit organisations that participated in the study were asked whether they engage in local fundraising or, if they are interested in it at all. Only 2% of the organisations whose representatives we spoke to are largely or significantly funded through local fundraising. The rest are either wholly or almost wholly funded by international sources. Of interest is the fact that an overwhelming majority of the organisations are hesitant to pursue local fundraising. When we sought to find out why, we received varying answers. The consensus seems to be around the perception that local fundraising is very difficult and time consuming, yet it produces very little result. Some organisations said that the little income they generate from local fundraising would not be enough to fund their budgets and therefore, they focus on international sources which are much more generous. In addition, organisations with a long history of consistent and generous international funding are less likely to pursue opportunities for local philanthropy.

It is also believed that Kenyans will give to charitable causes but will not give to charitable organisations because of the negative perceptions about some public benefit organisations among Kenya among many Kenyans.

Organisations that actually pursue local sources of funding admitted that local fundraising is difficult, time consuming and usually unsuccessful or minimally successful, but on the other hand argued that it is much more sustainable and becomes much easier with time. One organisation explained that it requires patience and systematic building of relationships and trust, as well as creativity in fundraising methods and marketing as well as the use of information and communication technologies in facilitating giving. They also pointed that with declining sources of international funding, and the move by some governments in the West to cap tax incentives for philanthropy in those countries; local fundraising will soon become a necessity.

6 Salamon, Global Civil Society;
Tax as an Incentive

An incentive is something that motivates or encourages a person to take action or do something specific. It is intended to stimulate a specific result. An incentive for philanthropy, therefore, would be something that stimulates people to give for charitable causes. A corporate body might, for example, fund a university hall on condition that the hall bears its name. A benefactor may fund a scholarship fund, in order to create a legacy that outlives him or her. An incentive may also be an initiative of the government in the form of tax breaks on amounts given to charitable causes. The Economist called this “Sweetened Charity”.

When respondents were asked what they thought would be the greatest incentive for institutional philanthropy, the unanimous response was “tax incentives”. A significant majority of the public benefit organisations that interviewed commented that they were beneficiaries of tax incentives offered to philanthropists in the West and they felt that the incentives would work the same in Kenya. The Respondents explained that with proper sensitization, many Kenyans would give much more if they enjoyed the benefit of a tax break on their donations. Some respondents qualified this by saying that the tax breaks would be harmful and detrimental to the economy if they do not operate within a favorable policy, regulatory and legal environment, characterised by transparency and proper enforcement.

Do tax incentives actually encourage philanthropy? It appears that they do, in many jurisdictions. In the West, for example, income tax and estate-planning policies have encouraged legacy funding and the establishment of large well-funded foundations and trusts that in turn support developing programs all around the world. The experience in developing economies, however, has been slightly different. Although some countries, like Kenya, have tax incentives for philanthropy, the incidences and use of these incentives has been limited because of certain realities as observed in this research. In addition, the income tax incentives do not often work very well because many potential taxpayers are still beyond the reach of revenue authorities and, even with those who are, their effective tax rate is likely to be significantly lower than the official rate because the collection of taxes, in developing economies, is porous, poorly designed and poorly enforced.

Objective 2: Assess the interest of recipients of charitable donations in applying for tax exemption certificates and the challenges they face in the application process

With respect to legal forms, a public benefit organisation in Kenya can take the form of a Charitable Trust, a Foundation (an incorporated Trust or a company limited by guarantee), or an NGO. The procedure and timelines for setting up each structure is different and a discussion on that is beyond the scope of this report. The Income Tax (Charitable Donations) Regulations 2007 and the Income Tax Act (ITA) defines a charitable organisation in general terms as an institution, body of persons, or irrevocable trust, of a public character established solely for the purposes of the relief of the poverty or distress of the public, or for the advancement of religion or education, all for public benefit. These organisations are entitled to apply for tax exemptions status and in this respect, the ITA does not distinguish between the legal ways through which the charitable organisation may be formed and accordingly any charitable organisation, regardless of legal form, is entitled to make an application for exemption to the Commissioner. Paragraph 10 of the First Schedule to the ITA provides that the income of an institution, body of persons, or irrevocable trust, of a public character established solely for the purposes of the relief of the poverty or distress of the public, or for the advancement of religion or education, all for public benefit, shall be tax exempt. Such an entity must either be established in Kenya or its regional headquarters be situated in Kenya.

However, where that income consists of gains or profits from a business (this could be trade, service delivery, consultancy, etc.) the gains or profit from the business shall not be exempt from tax unless those gains or profits are applied solely to the charitable purposes (emphasis mine) and either one of the following conditions must also be met:

(i) the business is carried on in the course of the actual execution of those charitable purposes; or
(ii) the work in connection with the business is mainly carried on by beneficiaries under those charitable purposes; or
(iii) the gains or profits consist of rents (including premiums or similar consideration in the nature of rent) received from the leasing
or letting of land and chattels leased or let therewith.

Additionally, the Commissioner must be satisfied that the income is to be expended either in Kenya or in circumstances in which the expenditure of that income is for purposes which result in the benefit of the residents of Kenya.

The majority of organisations interviewed fell in the following three categories:

a. Those that did not know anything about tax exemption certificates and the procedure that they should follow when applying for one;

b. Those that have applied for a tax exemption certificate but, more than one year later, they are still waiting for feedback from the Kenya Revenue Authority regarding the fate of their application;

c. Those that are aware of the legal provisions but do not want to apply for the tax exemption certificate either because they deem it unnecessary to apply for one.

One of the greatest challenges identified during the study is the lack of awareness about the income tax regime that governs public benefit organisations in Kenya. When probed, it was discovered that almost all the respondents interviewed did not have accurate information, knowledge or understanding of the tax laws governing the philanthropy space in Kenya. Indeed it appears that most of these organisations are set up without a clear understanding of the tax framework within which they operate. The general misconception is that as long as an organisation claims to be set up for public benefit and complies with the necessary legal form, it is automatically exempt from liability to Kenyan tax and does not need to apply for tax exemption status. Many organisations were unfamiliar with the basic legal provisions on tax exemption certificates and the process of applying for one. The NGO Coordination Board has failed to prepare the organisations it registers for compliance with tax matters. In addition, there are no regulatory bodies that regulate and monitor public benefit organisations registered under alternative regimes, leaving these organisations to figure their way through a complex tax compliance process.

A tense relationship between the government and civil society (particularly those involved in human rights, democracy and social justice) was identified as another reason for the failure to applying for a tax exemption certificate. These civil society groups fear that exposing the work that they do to the government would lead to interference or victimization and would rather pay the tax than open up their activities to the government. The fear is based simply on the assumption that the government will respond negatively and not, according to these organisations, on a need to cover up any ill on their part.

It emerged that some public benefit organisations do not apply for tax exemption certificates because they do not rely on local fundraising. It was found that a majority of organisations that rely heavily or significantly on local fundraising are extremely interested in applying for the certificate because their donors either insist on it or, are motivated to give because of it. In addition, some organisations explained that they have not applied for the certificate because they do not see the benefits that they will derive from it.

The other reason for the hesitation in applying for the certificate appears to be the fear that the process is difficult, involving, long and strenuous. Some organisations also feared opening up their books to the government for fear of being charged for back taxes. Based on the responses received, it seems to be a reality that the process takes an inordinately long time, with the average certificates being issued (if ever) after a period of 1-2 years. The organisations spoken to said that the inordinate delay is in spite of providing all the documents requested by the Revenue Authority. The organisations further complained that the Authority does not communicate its expectations effectively, leaving the applicant unsure of what could be holding up the process.

One organisation was interviewed whose application was processed and approved in a record 6 months. The representative did admit however, that certain senior members of the organisations had the clout that they need to push the process along. It was also discovered that organisations that engaged external consultants fared better than those who tried to process the application internally. These external consultants are usually well remunerated putting their services beyond the reach of the ordinary NPO.
It is not clear why there is an inordinate delay in the process of application for a tax exemption certificate. Respondents suggested several reasons including understaffing in the exemptions department, lack of understanding of the work carried out by Public benefit organisations, past abuses of the system, and the pressure on KRA to raise revenue.

**Objective 3:** Assess whether, and how, tax incentives actually motivates organisations and individuals engaged in local philanthropy

The main finding under this head is that although persons/PBO’s engaged in philanthropy are primarily motivated by a passion for the cause, tax incentives assure the donor that the contribution they are making is recognized and respected by the government. Charitable donations play the same role as tax; they assist in redistribution of income to improve the well-being of communities and the country.

Donors do not understand the law as it currently stands; it is viewed as unnecessarily complicated and designed to discourage potential users of the law. Most donors are not aware of the tax receipts that can be utilized to claim tax deductions and they would be hesitant to commence such a process because of government bureaucracy. Simple, and easy-to-effect, tax deductions would encourage donors to give significantly more than what they are currently giving.

The Income Tax (Charitable Donations) Regulations and the Income Tax Act provide that a person who makes a charitable donation is entitled to make a claim for the allowance (100%) of that donation.

There are certain conditions attached to this incentive such as:

a. The donation must be in cash (by way of a cheque) and must not be repayable or refundable under any circumstances;

b. The donation must not confer any direct or indirect benefit to the donor or any person associated with the donor;

c. Must not be revoked after being paid, unless the Commissioner’s consent is obtain and whereupon tax shall be payable on that amount;

The donor must supply the Commissioner with proof of the payment in the form of a receipt which meets the requirements set out in the regulations, accompanied by a copy of the charitable organisation’s tax exemption certificate and a declaration that the charitable organisation shall use the funds exclusively for charitable purposes.

There is a glaring contradiction in these legal provisions, however, and this contradiction has prevented numerous charitable organisations from benefitting from this useful incentive. The Regulations define a charitable organisation in broad terms and does not discriminate on the basis of legal form. The Regulations are intended for the benefit of all charitable organisations. Regulation 3 (1), however, makes reference to Section 15 (2) (w) of the ITA which states that the allowance for charitable donations only applies where the donation is made to an organisation registered under the Societies Act or the Non-Governmental Organizations Co-ordination Act, 1990. This obvious contradiction in the law is unfortunate and requires an urgent remedy. It is argued that with the passing of the Regulations, Section 15 (2) (w) ought to have been amended to include all charitable organisations. This was never done and there are absolutely no grounds for the discrimination on the basis of legal form.

There are several other challenges with these Regulations that hinder their effective usage in promoting local philanthropy. The recognition of giving by way of cheques and cash only is a major set-back. By way of illustration, if an organisation manufacturing dry food stuffs makes a donation to an NGO working in starving community, they cannot deduct the value of that donation from their gross income because, the law does not recognize that giving. This is not justifiable because the in kind donation has a monetary value that is indicated in the books of that donor as stock that has left the business. Perhaps the challenge would be in assigning a fixed and fair value to these in kind donations, in order to prevent abuse of the provision. This is a challenge that can be easily overcome as explained in the last part of this report.

In addition, the ITA provisions do not recognize legacy funding which would be an excellent way of encouraging families to give to philanthropic causes

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2 For the purposes of this study, we have restricted ourselves to income tax matters (i.e., excluding customs duties and VAT)
8 http://www.economist.com/node/21556570
even beyond their life-time. Although the Regulations do not prohibit other forms of giving like payroll giving, the Regulations should be simplified and should explain how an interested donor can effect such giving within the framework of the law. These proposals are discussed in greater detail below.

Objective 4: Propose possible practical interventions that can enhance both the supply and demand side of a vibrant philanthropic sector, building on the findings of the three key specific objectives.

It emerged that tax incentives should not be dangled like a carrot for potential donors. Philanthropy must be predicated on a passion for the cause rather than a motivation for giving since the incentive may be withdrawn by the government at any time. Tax incentives should be perceived as an added benefit, and should go hand in hand with non-tax incentives.

Encouraging Local Philanthropy: Non Tax Initiatives

Charitable Legacies

“People need to be educated about what it means to leave a charitable legacy. It means that your name remains a legacy—that your name will live on.”

The tax regime in many countries imposes an inheritance tax on the estate of a deceased person and in some jurisdictions this offers an opportunity to incentivize persons to leave charitable legacies by offering a tax break. A good example is the UK where for deaths on or after 6 April 2012, estates that include charitable legacies of at least 10% of the net estate will benefit from a 36% rate of inheritance tax (compared with the main inheritance rate of 40%).

Although Kenya does not have an inheritance tax, charitable legacies are unexplored and untapped possibilities. Incentivizing people to leave charitable legacies through tax incentives would not work at this time since there is not tax in place to begin with, but creating awareness about the possibility of leaving a charitable legacy is a good idea. One respondent gave the example of a family patriarch who left all his assets in a trust for his descendants. One of the terms of the trust was that the descendants had to work for the trust in order to grow it and benefit from the proceeds. In addition, their benefit was tied to their giving of a portion of the proceeds to an identified charity.

Appealing to the desire of many people to leave their mark on the world to carry forward their family name may lead many people to bequeath charitable legacies to causes close to their heart. This particular form of giving would greatly benefit institutions in the area of education and health and is extremely popular with universities in the West who rely on charitable legacies for many of their scholarships.

Simple Platforms and Use of ICTs

“It would be easier to give if the giving was organized and structured”, “structures and processes need to be easy, and even if I want to give more I will not do it because the structures are not friendly…”

In recent years, the use of information and communication technologies has proliferated at an unprecedented rate. As a result, more and more people around the world and in Kenya rely heavily on technologies such as MPesa, mobile banking, internet banking, and e-payment. Transactions now take place at the click of a button. A look at the web pages of many charities, mission or research hospitals and universities in the West reveal the indiscriminate use of these ICTs in fundraising. Giving to most of these organisations is simple and straightforward, and can be done from the comfort of one’s home or office. Many Kenyans have embraced these technologies and their use has increased significantly in the last decade.

Many of the respondents interviewed held the opinion that civil society groups need to make better use of these technologies in order to make it easier for Kenyans to give to important causes. The Kenyans for Kenya and We are One funds drive were cited as examples of success stories that made use of MPesa to make it easier for Kenyans, regardless of their location, to give instantly.

This study recommends that charitable organisations utilize web technologies by creating interactive
websites with different options for willing donors that permit them to make electronic or mobile payments and, even deliver tax receipts, a copy of the organisations tax compliant certificate and a declaration that they will only use the funds for charitable purposes, directly into the donor’s email account. This smooth interface and streamlining of systems would make it easier and more efficient to give and may encourage many more to adopt structured philanthropy in the long term.

**Credible Institutions**

“Kenyans will never give to NGOs until they begin to trust them and understand how they use their money.”

There was general consensus among the respondents that credible institutions are an important incentive for local philanthropy. Unfortunately, as a result of some unscrupulous institutions, many Kenyans have viewed civil society groups with a measure of suspicion and failed to see the good work carried out by many charitable organisations. As is often the case, negative information receives greater publication. In order to encourage Kenyans to support the civil society groups working in the country, they must receive assurances that the organisations that they are supporting are credible, accountable and ethical.

One of the ways through which this can be done is to encourage better reporting and accountability. Kenya does not have laws requiring foundations and other philanthropic entities to publicly disclose data on what they receive. Such disclosure is important for several reasons including gauging the efficacy and impact of donations for philanthropy, facilitating better use of these donations, and minimizing the risk of wastage or misappropriation. It would also make it easier to pick out which organisations have the greatest need and prevent duplication of efforts in a particular sector. This is another opportunity to use ICTs in encouraging local philanthropy as the public disclosure can easily take place on the website of an organisation or, as a link on the page of an umbrella body such as the CSO Reference Group website. Such public disclosure enhances confidence in the integrity of civil society.

**Enhanced Partnerships with Government and other Charitable Organisations**

“Civil society does not receive support from the government so they only focus on their areas of interest instead of the government’s priority areas. This means that many charitable organisations are either duplicating the efforts of other CSOs or the efforts of government.”

These were the views of one of the respondents interviewed. The respondent’s concern is that the Government does not publish its priority areas in which it requires support and invite civil society groups to partner with it on those areas. As a result, it is possible that many civil society groups are working in areas that the government does not require support or is already doing what is required. In addition, it is possible that too many civil society groups are all working in specific areas, leaving other sectors unattended. They gave an example of a sector in respect of which they tried to fundraise locally but was told by every organisation that they approached for funding that they were already funding that sector through other charitable organisations.

In order to enhance efficiency in local fundraising and to ensure that all sectors are adequately supported civil society and government need to work together instead of working in isolation. They ought to view each other as partners in the same cause, in order to be of greater benefit to the public. Indeed, in the UK, local charities actually receive some funding from the local government in their area of operation in order to support the work that they are doing that community. The ideal situation would be that civil society and government partner in identifying areas and sectors with the greatest need and work together in addressing those needs. In addition, civil society groups ought to enhance partnerships with each other and pool their resources, knowledge, best practices and energies in addressing problems of mutual concern. This would ensure efficiency and success in fundraising efforts and making a real change in the society.
Awareness and Strategic Campaigning

“Civil society needs to take the lead and spearhead awareness and strategic campaigns in order to raise awareness about the work they do, the status of philanthropy in Kenya, the extent of reliance on international donor funding, the impact of withdrawal of international donor funding on vulnerable groups and the society as a whole, as well as the current status of and opportunities in local fundraising.”

Awareness campaigns are an important aspect of promoting local philanthropy. Many Kenyans do not currently understand the distinct difference between checkbook charity and strategic philanthropy and what impact that distinction has on the sustainability of philanthropy. Awareness is important in creating a socially conscientious society that understands its responsibility to the most vulnerable. While it is admitted that Kenyans are charitable, the current model of charity is not sustainable in the long run and does nothing to ensure that the cycle of poverty, discrimination, sickness, torture, ignorance and suffering is broken. Most Kenyans do not understand the full extent to which civil society assists in ensuring a better life for more than half of the population that lives below the poverty line.

This study recommends, in line with the respondent whose comments are quoted above, that awareness campaigns would enable Kenyans to understand that educating one child transforms one life, but pooling resources with many others to educate forty children transforms an entire community. As mentioned above, it may be the case that structured philanthropy is a foreign concept to many Kenyans since it is a practice that developed in and is more common in the developed economies. Civil Society needs to take the lead in raising awareness and perhaps coming up with innovative ways of modifying and domesticating the concept in a way that resonates with Kenyans.

Tax as an Incentive: Medium and Long-Term Goals

Amendments to the Income Tax Act and Charitable Donations Regulations

It has already been pointed out above that there are contradictions and unjustifiable restrictions in the law. It is recommend that the entire civil society movement in Kenya begins to lobby the government to amend Section 15 (2) (w) of the Income Tax Act so that the benefit therein can be enjoyed by all charitable organisations, regardless of legal form. This discrimination in the law is unjustifiable and unconstitutional.

This study also recommends an amendment to the law on application for tax exemption certificates. The discretion granted to the Commissioner in this respect is unwarranted and has been abused, as evidenced by the duration of time it takes to process an application for exemption. The Commissioner’s exercise of power ought to be time-bound and if he fails to act within such time, the exemption ought to be deemed to be automatically allowed. Indeed, Article 45 of the Constitution now requires expedient action by administrative bodies and this inordinate delay is unjustifiable and sufficient grounds for judicial review.

It is also recommended that the scope of donations recognized by the Regulations to include donations in-kind such as food stuffs, land, professional services, and other quantifiable in-kind donations. It is proposed that, in order to prevent abuse of such donations, that each year, the Commissioner publishes a Schedule of in-kind donations together with what is deemed a market rate for such a donation for allowance purposes. This Schedule can be revised appropriately whenever new in-kind donations are identified or when the value of the donation is deemed to have changed due to market conditions.
These and other proposed amendments are summarized in the table below:

<table>
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<tr>
<th>Provision</th>
<th>Issue</th>
<th>PBO Act</th>
<th>Recommendation</th>
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<tr>
<td>• Section 15 (2) (w) Income Tax Act (ITA): exemption on any cash donation to a charitable organisation registered or exempt from registration under the Societies Act or the Non-Governmental Organisations Corporations Act, 1990.</td>
<td>• Donations other than cash or cheque are not recognized&lt;br&gt;• The restriction to donations made to NGOs and Societies only.</td>
<td>• Charitable donations under Section 15 (2) (w) of the ITA to be extended to include organisations with PBO status under Section 7 (b) of the PBO Act;&lt;br&gt;• The PBO Regulations should clearly state the criteria for according the special status.</td>
<td>• Extend incentive to donations in kind;&lt;br&gt;• Deductions should apply to all PBOs in line with the Income Tax (Charitable Donations) Rules.</td>
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<td>• Exemptions under the Customs &amp; Excise (Remission) (Charitable Organisations) Order, 1999 for organisations registered or exempt from registration under the Societies Act or the Non-Governmental Organisations Corporations Act, 1990</td>
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<tr>
<td>• Paragraph 10 First Schedule of the ITA on the Exemption criteria</td>
<td>• Finance Act 2012: exemption certificate should be issued within 60 days of lodging application. The process takes longer.</td>
<td>• The rules and regulations could remedy the timelines by giving the recourse for the breach of timelines.</td>
<td>• Provide realistic timelines;&lt;br&gt;• State when an application is deemed accepted;&lt;br&gt;• The certificate ought to be automatically deemed as granted if the 60-day timeline is exceeded;&lt;br&gt;• Commissioner’s powers to revoke a certificate are too wide;&lt;br&gt;• Issuance of an interim certificate or letter while the application is under consideration</td>
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<tr>
<td>• Paragraph 10 of the 1st Schedule: income of an institution that is of a public character is exempt where the income is used solely for the relief of poverty, distress of the public or advancement of education or religion; Gains or profits from business are not exempt unless the business is carried on as part of the actual execution of charitable purposes.</td>
<td>• No clear definition of “Public Character”;&lt;br&gt;• There is a restriction on the nature of business</td>
<td>• Schedule 6 provides possible areas in which a PBO can operate and these should be aligned with ITA;&lt;br&gt;• Regulations should use the term “Public Benefit Activity” from PBO Act</td>
<td>• Amend Paragraph 10 to provide broader definition of institutions of public character;&lt;br&gt;• Remove restriction on the nature of business;&lt;br&gt;• Create nexus between terms and provisions in PBO Act and ITA</td>
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Enhanced Efficiency at KRA

“I think the exemptions department in KRA is understaffed. Whenever they made an appointment to meet our trustees, they would call to cancel because they were busy elsewhere. We are still waiting.”

As explained above, the inordinate delay by KRA in processing applications for exemptions is unjustifiable and unconstitutional. Lobbying is recommended for the enhanced efficiency of KRA and simplification of the process so that the Authority is able to carry out its assessment faster and more efficiently. Civil society organisations can also expedite the application process by making sure that all their documentation is ready and accurate and, they have paid any back-taxes that may be due at the time of applying for the exemption.

Awareness Forums for Civil Society and KRA

“The relevant officers in KRA need to be trained on how civil society programs work so that they know what to look for when they carry out their assessments.”

Respondents indicated that they came across an officer who did not understand how programs run in the not for profit sector and this became a hindrance during the tax exemption application process. In addition, during the research, it was also discovered that very few organisations have a full and accurate understanding of the tax regime governing the philanthropy space.

Joint awareness forums for both civil society and KRA is recommended, where each party can explain the work that they do to the other, and also discuss their expectation of the other.

Applying for a Tax Exemption Certificate

All the respondents spoken to were of the firm opinion that tax incentives would greatly enhance local philanthropy. In the same breath however, many organisations were hesitant to apply and others, who are adequately funded by international donors, felt no need to apply.

Accessing the existing tax incentives is pegged upon possession of a (valid) tax exemption certificate. Charitable organisations must, therefore, take positive steps towards applying for this certificate if they are to play their part in encouraging local philanthropy. In addition, the government must also support this process by, as stated above, simplifying and expediting the process.

Preventing Abuse

Although this is a topic that was beyond the scope of this study, it is important to mention it because if tax incentives for philanthropy are abused by unscrupulous individuals and organisations, they will become an agent for denying the government the resources that it needs to provide vital services for its people. This situation may then begin to work against civil society in Kenya and have the net effect of hampering the efforts to promote local philanthropy.

Thus, even public benefit organisations push for greater use of the existing incentives, the government must at all times ensure that the law aids those who need the greatest help while deterring those who would wish to abuse these useful legal provisions.
Schedule 1: List of participating institutions

The members of the Working Group that steered this research project include:

<table>
<thead>
<tr>
<th>Ms.</th>
<th>Faith</th>
<th>Kisinga</th>
<th>Act!</th>
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<tr>
<td>Ms.</td>
<td>Nora</td>
<td>Honkaniemi</td>
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<td>Mr.</td>
<td>Ezra</td>
<td>Mbogori</td>
<td>Akiba Uhaki</td>
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<td>Mr.</td>
<td>Zack</td>
<td>Mukewa</td>
<td>Blogger</td>
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<td>Dr.</td>
<td>Manu</td>
<td>Chandaria</td>
<td>Chandaria Foundation</td>
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<tr>
<td>Mr.</td>
<td>Hirji</td>
<td>Shah</td>
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<td>Mr.</td>
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<td>Ms.</td>
<td>Catherine</td>
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<td>Ms.</td>
<td>Liz</td>
<td>Getata</td>
<td>EABL Foundation</td>
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<td>Mr.</td>
<td>Yusuf</td>
<td>Idarus</td>
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<td>Ms.</td>
<td>Rachel</td>
<td>Gathoni</td>
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<td>Ms.</td>
<td>Lynette Mukami</td>
<td>Nation</td>
<td>Media Group</td>
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<td>Dr.</td>
<td>Vijoo</td>
<td>Rattansi</td>
<td>Rattansi Education Trust</td>
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<td>Mr.</td>
<td>Brian</td>
<td>Ouma</td>
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<tr>
<td>Mr.</td>
<td>Ashif</td>
<td>Kassam</td>
<td>RSM Ashvir</td>
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<td>Mr.</td>
<td>Arif</td>
<td>Neky</td>
<td>RSM Ashvir</td>
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<td>Ms.</td>
<td>Immaculate</td>
<td>Otieno</td>
<td>Safaricom Foundation</td>
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<tr>
<td>Ms.</td>
<td>Daisy</td>
<td>Ogembo-Adongo</td>
<td>Strathmore Tax Research Centre</td>
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<td>Ms.</td>
<td>Valerie</td>
<td>Khoda Strathmore</td>
<td>Tax Research Centre</td>
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<td>Mr.</td>
<td>Edwin</td>
<td>Kiama</td>
<td>Inuka</td>
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<td>Ms.</td>
<td>Lilian</td>
<td>Kaivilu</td>
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<td>Ms.</td>
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<td>Obanda</td>
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<td>Mr.</td>
<td>Shem</td>
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Schedule 2: Template Survey Tool

Background

Please complete the following questions as best as you can.

1. Please select the legal form of your NGO from the options below:
   Choose an item.

2. Please select the MAIN geographical location of your organisation’s activities from the options below:
   Choose an item.

3. How many years has your organisation operated in Kenya?
   Choose an item.

4. In what sector does your organisation PRIMARILY operate?
   Choose an item.

   If other, please explain below.

5. What is the average annual budget of your organisation (take the average of the last 3 years)?
   Choose an item.

6. What percentage of your annual budget is funded through local fundraising?*
   Choose an item.

* This refers to purely Kenyan sources. Local offices of foreign organisations do not apply.
7. On a scale of 1-6, how important are the sources listed below for your organisation’s local funding\(^\text{10}\)?

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<td>Local foundations and trusts</td>
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<td>Non-governmental organizations</td>
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<td>The government</td>
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<td>Private Individuals</td>
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<td>Local communities</td>
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<td>Local companies and businesses</td>
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<td>Events such as golfing, music concerts etc</td>
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<td>Income generating activities or investments</td>
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<td>Membership fees and subscriptions</td>
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8. If the percentage of local funding for your budget is below 30% (question 6 above), what are some of the notable hindrances to your successful local fundraising? You may tick more than one.

- [ ] The amount obtained from local fundraising is too little to justify the effort
- [ ] It is too difficult
- [ ] Kenyans do not donate for charitable activities
- [ ] International sources are sufficient for your budgetary needs
- [ ] You lack the internal skill and capacity to engage in local fundraising
- [ ] Other. Please specify here [Click here to enter text.]

9. On a scale of 1-6, how important are the sources listed below for your organisation’s international funding\(^\text{11}\)?

\(^{10}\) See note 1 above.
\(^{11}\) See note 2 above.
10. Who is responsible for your local fundraising in the organisation? You may tick more than one.

- [ ] Contracted service provider or consultant
- [ ] The Chief Executive Officer
- [ ] A full time fundraising officer or team
- [ ] Trustees or directors
- [ ] Other. Please specify here. Click here to enter text.

11. Organisations that raise funds locally have certain obligations to their givers. On a scale of 1-5, how important is it for your organization to comply with the following obligations

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<tr>
<td>Preparation and filing of tax returns and compliance with all tax obligations</td>
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<td>Annual audits</td>
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<td>Reporting to the donor</td>
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<td>Reporting to your board and key stakeholders</td>
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<tr>
<td>Accounting requirements</td>
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</table>
Tax Exemption Rules

12. Are you aware that Kenya has tax incentives for charitable donations?
   □ Yes
   □ No

13. If your answer to question 12, above is YES, which incentives are you familiar with and how do they operate?

14. Has your organisation ever applied to the tax authorities for a tax exemption certificate\(^\text{12}\)?
   □ Yes
   □ No

15. Based on your answer to Question 14 above:
   15.1 Why did you apply (or have you NOT applied) for the certificate?

   15.2 When did you obtain the certificate?

   15.3 How long did it take you to get the certificate from the date of application?

15.4 Is the certificate currently valid? □ Yes □ No

16. If your answer to Question 14 above is YES, would you describe the application process as (please tick one):
   □ Simple and easy to follow
   □ Moderately difficult but manageable
   □ Quite difficult and demanding
   □ Impossible without help
   □ Could not find help, hence did not complete

17. Please describe any key challenges faced during the application process.

\(^{12}\) This is a certificate issued to organisations engaged in charitable activities, exempting their income from taxation, to the extent that such income is applied wholly for charitable works, pursuant to the provisions of the Income Tax of Kenya.
18. If your organisation did not face any challenges during the application process, what reasons would you ascribe to this? List them below
1. .................................................................
2. .................................................................
3. .................................................................
4. .................................................................
5. .................................................................
6. .................................................................
7. .................................................................
8. .................................................................

19. If your organisation does not already have a valid tax exemption certificate, do you intend to apply for one in the near future?
   □ Yes
   □ No

   If your answer is NO, please explain why.

20. If your organisation holds a valid tax exemption certificate, do you routinely issue certified receipts to organizations and individuals who have made donations to you organisation\textsuperscript{13}?
   □ Yes
   □ No

   If your answer is YES, please explain how many certificates, on average, you issue in a year.

   If your answer is NO, please explain why.

21. In your view, what internal organizational factors bar Not for Profit Organisations from applying for tax exemption certificates? Please tick all the relevant answers.
   □ Audit queries and issues
   □ Lack of internal capacity and skills
   □ Financial non-compliance
   □ Other. Please explain

\textsuperscript{13} These are receipts issued by tax-exempt charitable organisations to persons or organisations donating to them to enable those persons or organisations obtain tax deductions to the tune of their giving.
22. In your view, what external factors (outside the organization) bar Not for Profit Organisations from applying for tax exemption certificates. Please tick all the relevant answers.

☐ Fear that the process is too long and tedious
☐ Fear of exposing their activities to the revenue authority
☐ Limited or lack of knowledge of the existence of the opportunity in the law
☐ Local fundraising is not viable
☐ Other. Please explain

Influence of Tax Incentives

23. In your view, do tax incentives encourage people or local organizations to give or to enhance their local resources mobilization?

☐ Yes
☐ No

24. Briefly explain your answer to Question 23 above.

Other Factors

25. What other policy and non-policy incentives would encourage Kenyans to give to charitable purposes or to mobilize local charitable gifts and donations? Please explain.

26. What roles should Not-for-Profit Organizations play in promoting charitable or philanthropic activities and initiatives in Kenya? Please explain.

** Thank you **
Schedule 3:
List of Questions for the Focus Group Discussion

1. Are Kenyans philanthropic? Why or why not?
2. Does your organization rely mostly on local fundraising or international fundraising?
3. What would you term as the chief hindrances to local fundraising?
4. Does Kenya have any tax incentives for philanthropy?
5. Which incentives are you familiar with?
6. Has your organization ever applied for a tax exemption certificate?
7. Why did you apply for the certificate? If your organization has not applied, please let us know why.
8. How long did it take to obtain the certificate from the date of application?
9. What words would you use to describe the process?
10. Now that you hold a valid tax exemption certificate, how many tax receipts do you issue on average, in a year? What determines how many receipts you issue?
11. What are some of the challenges that organizations face when they apply for tax exemption certificates? Did your organization face such challenges? How did you overcome them?
12. If you did not face such challenges, what do you think you did right?
13. Does your organization intend to apply for the certificate in the near future?
14. Do you think tax incentives encourage Kenyans to give for philanthropy? Why or why not?
15. What other interventions would encourage Kenyans to give more than they currently do?
Schedule 4: List of Questions for the Key Informant Interviews

a) Do you think Kenyans are Philanthropic? Why? Why not?

b) How long has your organisation been in existence?

c) Does your organisation receive significant financial support from Kenyans?

d) Has your organisation ever applied for a tax exemption certificate? Did you get it?

e) How long did you or have you waited for one?

f) Why did you apply for a tax exemption certificate? If you have not applied, why not?

g) If you are still waiting - what is holding up the process (is it KRA or the institution’s failure to comply)?

h) From your prior experience (if you have worked in philanthropy for a long time) or knowledge, are you aware that NGOs are entitled to issue tax receipts to their donors who can then use them for tax deductions?

i) Do you know any NGO that issues tax receipts?

j) Do you think tax incentives would encourage Kenyans to give more? Why or why not?

k) What other incentives or interventions would encourage Kenyans to give more?
Schedule 5: List of Questions for the High Net Worth Individuals

a) Do you think Kenyans are Philanthropic? Why? Why not?

b) Are you actively engaged in philanthropy? How long have you been so engaged?

c) What is your greatest motivation for philanthropic giving?

d) Are high net worth individuals a part of civil society?

e) Do you think that tax incentives have a role to play in philanthropy in Kenya? Do you think the ordinary Kenyan would respond to these incentives and give in a more structured way? Why or why not?

f) Are you aware of any tax incentives for philanthropy in Kenya? Which ones?

g) Have you ever received a tax receipt from local NGOs that you have given to?

h) What other incentives or interventions would encourage Kenyans to give more?