



# NamRA TAX CAFÉ

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Dear Readers,

The Namibia Revenue Agency (NamRA) remains committed to continuous tax education to overcome knowledge gaps. It is against this backdrop that we introduced this platform to share with you information from our inhouse experts, which we trust will ensure that you remain well informed, while advising on how to be compliant. We further hope to equip taxpayers with the necessary understanding about the tax legislation and thereby strengthening tax compliance.

Loide Hamutumwa, Manager Legal Services and Memory Mbai, Manager Audit and Compliance have extensive knowledge in taxation and contributed this article.

*Happy reading.*



**Loide Hamutumwa**  
Manager: Legal Services

## Tax takeaways when operating a philanthropic organisation



**Memory Mbai**  
Manager: Audit and  
Compliance

The generous work done by entities created to help advance social causes is recognised and applauded by NamRA. In doing so and with our commitments to positively impact the livelihood of every Namibia, we believe it is important to share key takeaways for these organisations to ensure full compliance with tax laws.

Section 16 of the Income Tax Act, 1981 (Act No. 24 of 1981), as amended, provides that there shall be exempt from the tax, the receipts and accruals of all ecclesiastical, charitable and educational institutions of a public character.

The first takeaway that we would like to highlight is that the exemption highlighted above does not automatically apply. A detailed submission requesting confirmation of such an exemption should be made to NamRA. NamRA will then consider and confirm in a constructive ruling whether the entity qualifies for tax exemption or not. In this regard, NamRA reserves the right to request any documentation for purposes of establishing whether the requirements for income tax exemption are complied with and this may include, but not limited to:

- (a) The registration documents or certificates issued to commerce business or establishment of the philanthropic organisation,
- (b) Certificate of registration as an employer in Namibia if any,
- (c) Audited financial reports (for entities required to be audited in terms of their enabling Acts) or bank statements with details of income and expenditures

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- (d) An explanation of the source of funding (received from local or international donors),
- (e) Detailed list and explanation of the activities /programs or objectives

It should be noted that an exemption status conferred on the receipts and accruals of the entity does not extend to the receipts and accruals of its owners or employees. Such entities should register as an employer for Pay as You Earn (PAYE) and withhold tax when making a payment or becomes liable to pay any amount by way of remuneration.

In addition to the above, section 17(s) of the Income Tax Act 1981 provides for general deductions allowed in the determination of taxable income on any amount donated by a donor to a welfare organization registered or deemed to be registered under the National Welfare Act, 1965 (Act No. 79 of 1965), and which is approved by the Minister responsible for Finance, after consultation with the Minister of Health and Social Services; or an educational institution approved by the Minister after consultation with the Minister of Higher Education, Vocational Training, Science and Technology or with the Minister of Basic Education and Culture, as the case may be.

For the above deductions to find application, the following requirements shall be met:

- (a) No deductions shall give rise to or increase any loss,
- (b) No individual is nominated as a beneficiary,
- (c) A certificate containing particulars as determined by the Minister shall be issued by the welfare organisation or education institution in respect of any such donation or no payment in respect of school fees or contribution to a school fund made to any school which a taxpayer is required to make shall be allowed as a deduction.

The important takeaway prescribed by section 17 (s), is that a donor is eligible to be issued with a certificate referred to in section 17(1)(s)(c) after making a bona fide donation.

A further important takeaway is that the exemption in terms of the Income Tax Act 1981 does not automatically extend to any VAT obligations that may arise from a taxable activity of the organisation for VAT purposes.

What constitutes a “taxable activity” can be a complex analysis and where taxpayers are not certain about how the VAT Act applies to their activities, they are encouraged to approach NamRA for a constructive ruling to avoid non-compliance with the VAT Act.

NamRA is working timeously on investigating, monitoring and evaluating that such tax exemption status is not abused for personal gain or to evade tax obligations. Taxpayers are encouraged to act in good faith when engaging in social causes to avoid their exemption status from being revoked and the further implication of criminal charges.