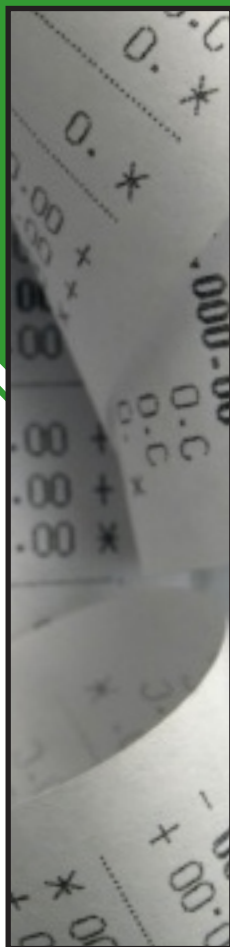


A Review of the TAX POLICY ENVIRONMENT FOR PHILANTHROPY IN EAST AFRICA



A Summary of the Report

Our Vision

A vibrant and just East Africa with effective grant makers promoting sustainable development.

Mission

To nurture and enhance a culture of local giving and resource mobilization through the growth of vibrant grant making in East Africa.

Our Values

Transparency and Accountability - We shall engage our members and all stakeholders in a manner that is open, constructive and consistent with our values.

Integrity - We are committed to principles of trustworthiness and incorruptibility in order to build the credibility of the association and its members. Our members are committed to the EAAG code of ethics and shall be guided by honesty and principles of moral conduct.

Social Justice - Taking its key notions to include: equality in access to opportunity, fairness, and rights, EAAG is committed to the principles of equity, gender, diversity and pluralism as its development values.

Partnerships and Collaboration

- *We shall seek to continually develop working relationships with other likeminded organizations;*
- *We are committed to contributing towards an enabling environment that stimulates investment in social development;*
- *We practice and promote mutual support and respect;*
- *We provide a safe environment for continuous learning.*



About the East Africa Association of Grantmakers

The East Africa Association of Grantmakers is an Association of Trusts and Foundations in East Africa established in 2003. The Association exists to promote the growth of local philanthropy in the region. We envision an East Africa where philanthropy is strong and vibrant for the sustainability of development in our region. EAAG promotes philanthropy by undertaking research on the subject and sharing the information for learning and action. The Association also engages in lobbying Governments to provide an enabling legal and policy environment for the promotion of philanthropy in the region. EAAG also establishes learning platforms and Communities of Practice



that brings together the philanthropy sector in East Africa. We promote partnerships with the private sector, the civil society sector, the Governments and other stakeholders in our efforts to promote philanthropy in East Africa.

Our Members:

1. Aga Khan Foundations, East Africa
2. Allavida, Kenya Office of Eastern Africa
3. Bernard Van Leer Foundation, Netherlands
4. Chandaria Foundation, Kenya
5. Community Development Trust Fund, Tanzania
6. Ford Foundation, Eastern Africa
7. Foundation for Civil Society, Tanzania
8. Human Rights Network, Uganda (HURINET-U)
9. Independent Development Fund, Uganda
10. Jomo Kenyatta Foundation, Kenya
11. Kabaka Foundation, Uganda
12. Kenya Community Development Foundation, Kenya
13. Kilimo Trust, Uganda
14. Rahimtulla Trust, Kenya
15. Rattansi Educational Trust, Kenya
16. Rural Livelihood Development Company, Tanzania
17. Safaricom Foundation, Kenya
18. Social Action Trust Fund, Tanzania
19. Tanzania Gatsby Trust, Tanzania
20. Ufadhili Trust, Kenya
21. Gertrude's Children's Hospital, Kenya
22. Johnson and Johnson Family of Companies Contribution Fund
23. Rwanda Development Organization, Rwanda
24. Strive Foundation, Rwanda



What is this Publication about?

In 2010, the TradeMark East Africa (TMEA) provided a grant for EAAG to undertake a review of the tax policies related to philanthropy in all the 5 partner states in East Africa. This publication is a summary of the report of the said tax policy review. The publication has provided a summary of information obtained in respect of the philanthropy related tax policies in Kenya, Uganda, Tanzania, Rwanda and Burundi. This is part of our efforts aimed at creating awareness on the subject of philanthropy and the general environment in which East Africa Philanthropy operates. We hope that with this information, you will join us in lobbying for a more enabling environment for philanthropy in East Africa

Acknowledgement

EAAG wishes to acknowledge with gratitude the financial support provided by the TradeMark East Africa (TMEA) towards this review. We appreciate the technical guidance and support provided by the TMEA team. We would like to thank David Ochieng of TRIDE- BAC LTD (the lead consultant) and the TRIDE- BAC team for carrying out the review.

Special thanks go to all the stakeholders who participated in the country consultation processes in all the 5 countries. We are indeed grateful too for those who took time to respond to the e- questionnaires and other tools that were used during the review as well as those who participated in the interviews.

We would like to give special thanks to the individuals who supported us in organizing the country consultation processes who include Eugene Rwibasirae of Rwanda, Mohammed Nibatura of Burundi, Rachael Bigala of Uganda, Kemilembe Mpaga and Amadeus Kamagenge of Tanzania and all our members for their efforts in supporting this review.

Finally, we would like to thank the team at the EAAG secretariat, Evans Okinyi and Ann Otunga for their support during the review.

To all of you we say, ASANTE SANA!

Lucy Githaiga, CEO, EAAG

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1. Background to the Study

Philanthropy has been variously described as the act of giving money, goods, time or effort to support a charitable cause, usually over an extended period of time and for a defined purpose. It is also thought of as strategic investment with a social purpose; the pursuit of real, lasting change in society and planned giving that focuses on impact. Philanthropy is as old as human.

By its very nature, philanthropy cannot be legislated, it cannot be coerced. However, most modern states recognize the important role philanthropy plays in the provision and enabling access to basic needs of their people. As such, and in response to calls from the not-for-profit sector, most states have developed legal, regulatory and institutional frameworks aimed at creating enabling environments for the growth of philanthropy. One of the

major areas of interventions towards promoting philanthropy has been the provision of tax incentives to individuals and corporations that give to philanthropic causes. Whereas giving and philanthropy are not primarily a direct response to tax incentives, it has been argued that tax incentives have the potential of encouraging more donations and giving.


The impact of tax policy reform on philanthropy however mixed, has for a long time been associated with the growth of giving, where such reform is targeted and subsidizing giving to charitable causes. At a time when most countries of the world have adopted different forms of tax policies to promote philanthropy with varied measures of impact, and considering the important role and place of philanthropy and not-for profit sector in East Africa, it becomes important to



review the tax policy environment for philanthropy in East Africa.

The East Africa Association of Grantmakers (EAAG) is an Association of Trusts and Foundations in East Africa interested in promoting the growth of philanthropy in the region. As one of its objectives, EAAG seeks to engage governments and stakeholders in creating an enabling environment for philanthropy in East Africa through tax policy advocacy. It is for the foregoing reason that EAAG with the support of

TradeMark East Africa (TMEA) commissioned this study so as to have baseline information about tax laws, policies and practices in the East Africa Community (EAC) region. The study will provide a basis for making recommendations to the EAC Partner States to consider creating an enabling legal and policy environment to support the promotion and growth of philanthropy in the region.



2. The Current Tax Laws and Policies in East Africa

2.1 Introduction

This chapter outlines the existing tax laws and policies of the five East Africa countries. Emphasis is placed on the current tax incentives for philanthropy. The East African Community's (EAC) Partner States have a range of tax incentives given to promote philanthropy in the region. The treatment of philanthropic contributions varies within the five countries. The relevant aspects of the East African Customs Management Act are also examined, to the extent that it guides the formulation of tax policies and laws and the effect of the same on philanthropy in the region.

2.2 The Tax Environment For Philanthropy In Kenya

The tax policy regime in Kenya is governed by several statutes and administered by the Kenya Revenue Authority. The major legal

instruments that regulate taxation in the country include the Income Tax Act, the Income Tax (Charitable Donations) Regulations of 2007, the Value Added Tax Act and the East African Community Customs Management.

2.2.1 The Income Tax Act

The Income Tax Act makes provisions for the charging, assessment and collection of income tax and the ascertainment of the income tax to be charged. Tax is charged on the income in respect of gains from profits, dividends or interest and pension, an amount deemed to be income under the Act, gains accruing in the circumstances prescribed in and computed in accordance with the eighth schedule. With regard to tax exemptions for philanthropy and not-for-profit organizations, the Act contains a number of provisions that lay the framework for exemptions. The relevant provisions include:

I. Power to Exempt Income from Taxation

Under section 13, the Minister of Finance is conferred upon the power to exempt any income or class of income from tax by way of notice.

ii. Allowable Deductions

Under Section 15 of the Act, Allowable deductions include:

- Donations made for scientific research either of capital nature or not.
- Donations paid to a university, college, research institute or other similar institution approved by the commissioner for scientific research.

iii. Donation Must be to a Qualifying Charitable Organization

In ascertaining total income for taxation purposes, Section 15 (2)(w), deductions are allowed for any cash donation in the year of income to a charitable organization registered or exempt from registration under the Societies Act or the Non-Governmental Organizations Coordination Act, 1990, and whose income is exempt from tax under paragraph 10 of the First Schedule to the Income Tax Act, or to any project approved by the Minister for Finance.

iv. Income derived from Business Activities of Charitable Organizations

With regard to charitable organizations, paragraph 10 identifies the exemptions allowed as including 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 established in Kenya or whose regional headquarters is situated in Kenya. Such income is thus exempt from tax.

For income described under the foregoing schedule to qualify for exemption, the gains or profits so made must be applied solely to the following purposes:

- The business must have been carried on in the course of the actual execution of the purposes stated in the schedule;
- The work in connection with the business should mainly be carried on by the beneficiaries under those purposes;
- The gains or profits must consist of rents (including premiums of similar consideration in the nature of rent) received from the leasing or letting of land and chattels leased or let therewith.

2.2.2 The Income Tax (Charitable Donations) Regulations of 2007

These regulations complement the provisions of the Income Tax Act. They mainly relate to how the administration of deductions made to charitable

organizations is to be carried out. The provisions of the regulations are briefly outlined below.

- **Section 3(1):** A person making a claim for a donation to be allowed under Section 15 (2) (w) is required to furnish proof of the donation.

- Such proof is in the form of a receipt issued and certified by the recipient of the donation. This is to be accompanied by:

- a) A copy of the exemption certificate issued by the Commissioner to the charitable organization or the Minister's approval of the project to which the donation is made;
- b) A declaration from the donee that the donation shall be used exclusively for the objects of charity.

- With regard to donations generally, the regulations require the following about charitable donations.

- a) The donations should be made in cash and should not be repayable or refundable to the donor under any circumstances;
- b) The donations, equally, must not confer any direct or indirect benefit to the donor or any person associated to the donor;
- c) The donations can under no circumstances be

revoked once conferred upon a charitable organization, unless there is approval by the Commissioner in which case the tax arising shall be due and payable.

- The receipt that is produced for a donation is required to indicate the following details.

- a) The full names and address of the donee;
- b) The Personal identification Number (PIN) of the donee;
- c) The date of the donation
- d) The purpose for which the donation was made;
- e) The amount of the donation

2.2.3 The Customs and Excise Duty Act

The Customs and Excise Duty Act provides for the management and administration of the customs, for the assessment, charge and collection of customs and excise duties.

I. Power Of The Minister To Remit Duty

Section 138 of this Act provides that Subject to subsection (2) and (5), the Minister may, by order in the Gazette, remit in whole or in part, duty payable by any person on goods, aircraft, vessels or vehicles imported by that person if he is satisfied that it is in the public interest to do

so. Section 138(2) lists goods eligible for remission.

ii. Application Of Tax Remissions To Non-profit Organizations

Through Legal Notice No. 68 of 1999, tax remissions were extended to be applicable to Non Profit Organizations. The Act lists the goods that qualify for remission under the Act. For the purposes of charitable institutions, the goods that qualify include:

- Goods, being *bona fide* gift (excluding office equipment, stationery and office furniture).
- If the goods are imported by a tax exempt charitable organization and approved by the Commissioner of Social Services for free distribution to the poor and the needy or for use in medical treatment or rehabilitation.
- If the goods imported are for free donation to a tax exempt charitable organization and approved for free donation to the poor.
- Where the amount of the excise duty exceeds Kshs. 40,000/= (approximately USD 500) the treasury must give its approval.
- Equipment, motor vehicles, vessels and aircraft consigned to or imported by any organization, if the commissioner is satisfied that they are for donation to charitable organizations.
- However, passenger motor vehicles of an engine capacity exceeding 3000cc, and four-wheel drive passenger motor vehicles of an

engine capacity exceeding 4000cc do not qualify for tax remission.

2.2.4 The Value Added Tax Act

The purpose of this Act is to impose a tax known as value added tax on goods delivered in, or imported into Kenya; and on certain services supplied in or imported into Kenya. Under this Act, remission or exemption is limited to particular goods, purchased by particular organizations and to applied determinate uses.

Section 23(1) of the Act provides that the Minister may, by order in the Gazette, remit wholly or partly tax payable in respect of any taxable goods or taxable services, if he is satisfied that it is in the public interest to do so. For the purposes of Not for Profit Organizations, remissions apply in respect of;

- Goods including motor vehicles and computers, (excluding passenger motor vehicles of a seating capacity of less than twenty-six persons, building materials, audio and audio-visual electronic equipment, spare parts, edible vegetable fats and oils, office furniture and other office equipment, stationery, textiles, new and used clothing and footwear, maize, wheat, sugar, milk and rice) imported or purchased locally for donation by any person to non-profit making organizations or institutions approved by the Government, for their official use or for free distribution to poor and needy persons, or for use in medical treatment, educational, religious or

rehabilitation work;

- Maize, wheat, sugar, milk, edible vegetable fats and oils, rice, textiles, new and used clothing and footwear imported or purchased locally during periods of civil strife, national calamity or disaster declared under any law for the time being in force, or where they are intended for use in officially recognized refugee camps in Kenya.

- Remission can only be granted on goods donated or purchased for donation by third parties to non-profit organizations that are approved by the government. Therefore, goods purchased directly by such organizations do not benefit from these provisions.

- With regard to official aid funded projects, the Act allows remissions for the following category of goods:

- a) Taxable services supplied to projects approved by the Government and funded through donations by any person for the benefit of poor and destitute persons;
- b) Goods imported under bond for manufacture of exports, indirect exports, goods free of import duty, goods for use in official aid-funded projects and goods for use in manufacture of goods which are in turn supplied to another manufacturer of goods under the Essential Goods Support Programme.

The third schedule to the Act also exempts the following services from VAT in relation to non-profit organizations;

- Social welfare services provided by charitable organizations and whose income is exempt from tax under Income Tax Act;
- Services rendered by educational, political, religious, welfare and other philanthropic associations to their members.
- Entertainment events of a charitable, educational, medical, scientific, or cultural nature as may be approved in writing by the Commissioner prior to the date of entertainment for the benefit of the public
- Accommodation and restaurants services provided by charitable organizations.

2.3 The Tax Environment For Philanthropy In Uganda

The legal framework for taxation is laid out in the Constitution of Uganda which gives mandate to the Parliament of Uganda to impose taxes but subject to a presidential veto. However the formulation of the tax and non-tax policies is the responsibility of Ministry of Finance Planning and Economic Development. The major legal instruments that regulate taxation in Uganda include the Income Tax Act, Cap 340; the Value Added Tax Act, Cap 349 and the East African Customs Management Act.

2.3.1 The Income Tax Act

The provisions on the Income Tax Act relevant to this study include:

i. Exempt Organization

The Act provides that an organization is exempt from paying income tax if it falls within the definition of “exempt organization” and has been issued a formal ruling from the Tax Commissioner qualifying it as an exempt organization. For any organization to qualify for exemption, it must be exempted in writing by the Commissioner stating that it is an exempt organization and it must show that none of the income or assets confers, or may confer, a private benefit on any person. This makes the administration process susceptible to abuse and creates a bureaucracy which compels the donor to confirm before making a donation whether the recipient is an exempt organization or not.

ii. Allowable Deductions

Allowable deductions for the purposes of income tax returns include:

- × A gift made during the year of income to an exempt organization under section 34. The extent of tax relief however is limited to 5 percent (5%) of chargeable income before taking into account such donations.

iii. Threshold Percentage of Exempt Income

- The amount of deduction allowed therefore does not exceed five percent (5%) of the person's chargeable income, calculated before taking into account the donations.
- This provision is limiting in the sense that it ties donations on parameters that do not take in to consideration the fact that chargeable income is as a result of many tax principles which may not depict the actual economic status of a business or the organization making the donation.

2.3.2 The Value Added Tax Act

The purpose of this Act is to provide for imposition of value added tax. The Act requires VAT to be charged on every import except exempt imports, and every taxable supply made in Uganda by a taxable person.

VAT Exemptions

With regard to the exemption of Not for Profit Organizations, the only exempt non-profit organizations are those listed in the Act. These mainly consist of international organizations, particularly U.N bodies. There are only two East African bodies listed; the East African Development Bank, and the East African Community and its agencies.

- Unlisted organizations, even where they are involved in philanthropic activities, are not exempt from paying Value

Added Tax.

- Suppliers of zero rated supplies, however, benefit from exemptions. They include suppliers of drugs and medicine, suppliers of educational materials, seeds, cereals which are grown, milled or produced in Uganda, and suppliers of milk.
- Non monetary donations are taxable if they were got from business goods. Where the goods are received as donations locally, VAT may not be required, but if the goods have been imported, that person will be required to pay VAT. In the same realm, if a person receives donated services which attract VAT locally, he will be required to pay VAT on services.

2.4 The Tax Environment For Philanthropy In Tanzania

The major legal instruments that regulate taxation in the country are the Income Tax Act, the Value Added Tax, The Customs Tariffs Act, the Business Licensing Act, the Stamp Duty Act, the Tanzania Revenue Authority Act and the Residence of Tax Act. These instruments contain a number of provisions that set the guidelines for taxation of the Not for Profit Organizations and which affect philanthropy. They are outlined below.

2.4.1 The Income Tax Act

The Income Tax Act was initially passed in 2004 but was later amended to incorporate

some changes in 2006. The Act has a number of provisions relating to taxation of charitable institutions. Relevant provisions of the Act include:

I. Power to Exempt Income from Taxation

The Act gives authority to the Minister of Finance to exempt any income from taxation. This can be done by placing an order in the Gazette to provide that any income or class of incomes accrued in or derived from Tanzania shall be exempt from tax to the extent specified in such order.

ii. Donations to Charitable Organizations

In calculating a person's taxable income for any year of income, deductions are allowed for amounts that have been contributed to charitable organizations. To qualify as a charitable organization, the entity must be established and be functioning solely as an organisation for:

- The relief of poverty or distress of the public;
- The advancement of education; or
- The provision of general public health, education, water or road construction or maintenance.
- It could also be an entity which has been issued with a ruling by the Commissioner currently in force stating it to be a charitable organization or religious organization.

iii. Threshold Percentage of Exemption

The deduction allowed for business income, however, is not to exceed two percent (2%) of the person's income from the business calculated without a deduction under subsection 16(1) relating to amounts contributed to charitable organizations.

- Any amounts contributed to any organization that meet any of the foregoing criteria are to be deducted from the amount taxable under business income.
- The same rule also applies to amounts made under Section 12 of the *Education Fund Act* and to gifts that are made to public, charitable and religious institutions.
- Furthermore, any amounts paid to local government authority, which are statutory obligations to support community development projects.
- This provision also extends to the process of making deductions when calculating a person's income for a year of income from any employment. In this regard, a deduction is allowed for donations made under section 12 of the *Education Fund Act*. An employee is thus allowed to apply for a deduction from the Commissioner.

2.5 Tax Environment For Philanthropy In Burundi

The legislation governing taxation matters in Burundi is contained in a number of statutes including '*Loi Portant Institution de la Taxe sur la Valeur Ajoutee*' (TVA) of 2009, as well as the '*Code Generale des Impots et Taxes*' which laws have been modified over time since 1963. The laws affect non-profit institutions in a number of ways. It is against the objectives of philanthropy that these laws shall be assessed.

2.5.1 The General Code On Value Added Tax [*loi Portant Institution De La Taxe Sur La Valeur Ajoutee (tva)*]

- This law defines taxable transactions as including the deliveries of goods and services supplied for consideration by a taxable person acting as such. These are to be treated as tangible property for the purposes of Value Added Tax.
- Any person who carries out taxable transactions which exceed a threshold that is determined by the Minister in charge of finance, whatever his legal status and its location in relation to other taxes and charges is subject to Value Added Tax.
- Under Article 6 of this law, '*international organizations, Embassies and Consulates are exempt from VAT.*' Nevertheless,

they pay VAT as a deposit, refunded to them under Article 19 of the same law.

- The minister is also allowed to give exemptions for medical, paramedical and dental services, including imports and supplies of medicines, pharmaceuticals, materials and speciality products for medical activities, under the conditions and limitations set in the appropriations.
- With regard to charitable organizations, the law allows the exemption of *'services and deliveries of goods closely linked to welfare and social security, conducted by organizations recognized as charitable by the Minister of Finance.*
- The limitation with the law is that it only allows tax exemptions with regard to international organizations. This makes it difficult for Not for Profit Organizations to raise money from local sources and thus limits their ability to increase the funding base given that the global recession is increasingly making foreign funding a difficult option for charitable institutions the world over.

2.5.2 Law On Income Tax (code Générale Des Impôts Et Taxes)

This law defines a taxpayer depending on rental income involving the owner or possessor of real estate or investment and business incomes involving companies, partnerships and individuals.

- The Burundian laws do not contain any specific regulations on exemption of income from taxation.
- There are no specific tax incentives for those who donate to charitable causes.
- It however contains exemptions on income that is designed to be invested in vocational information and education as well as certain profits gained by agricultural enterprises including cattle breeding.
- The only other exemption is contained in the Investment Code of 2008, aimed at promoting investments in the specified commercial enterprises and do not have any relation to charitable giving.

2.6 The Tax Environment For Philanthropy In Rwanda

There are a number of laws and regulations that govern the regime for taxation in Rwanda. They include Law No. 16/2005 on Direct Taxes on Income; Law No. 26/2005 Relating to Investment and Export Promotion and Facilitation; Rules from Ministerial Order No. 004/07; Commissioner General Rules No. 001/2007; Law No. 06/2001 of 20.01.2001 on the Code of Value Added Tax and Law N° 26/2006 Determining and Establishing Consumption Tax on some imported and locally Manufactured Products. For the purposes of Not for Profit Organizations, income tax and value added tax are the instruments with provisions relating to them.

2.6.1 Law No. 16/2005 on Direct Taxes on Income

This is the law that regulates the taxation of income in Rwanda. For the sake of tax treatment, the law in Article 10 defines taxable income as including employment income, business profits; investment income; as well as benefits availed to employees which are amenable to taxation.

i. Exemption of Income from Taxation

In the case of individual income, the law makes provision for exempt employment income. The exemption extends to:

- The law allows deductions of donations to charitable organizations but however sets a maximum threshold to which deductions can be allowed. Under Article 22(6), any donations and gifts that exceed one percent (1%) of turnover as well as donations given to profit making persons do not qualify as deductible expenses.

ii. Exempt Organizations

- Exemption from taxation is permitted for *'entities that carry on only activities of a religious, humanitarian, charitable, scientific or educational character, unless the revenue received during a tax period exceeds the corresponding expenses or to the extent that those entities conduct a business.'*
- Exemption is further allowed for *'international organizations, agencies of technical cooperation and their*

representatives, if such exemption is provided for by international agreements.'

iii. Exemption from Withholding Tax

- Tax exempt income is also exempted from withholding tax.

2.6.2 Law No. 06/2001 of 20.01.2001 on the Code of Value Added Tax

This is the law that establishes the regime for the imposition of taxes on transactions involving the supply of goods and services in Rwanda as well as their importation. The taxable transactions under this law include the supply of goods and services, the withdrawal of business assets as well as importation. There are a number of provisions relating to exemptions in this instrument.

- The Minister is allowed to exempt any supplies from the application of VAT. Article 15 of this law stipulates that the Minister may, by order, provide for a list of items provided for under Articles 86 and 87 of the law.
- Exemptions are allowed for charitable objectives under this law. Article 86(1) allows exemptions which are applicable and not subject to a ministerial directive.
- In this regard, *the supply of mains water and sewerage services made for non-profit motive, excluding sewerage pump out services* is exempt from the application of VAT.
- This law also exempts health supplies for *'articles designed for use by the blind or disabled', 'the supply or importation*

by, eligible persons, of equipment and drugs to hospitals and health centres' as well as the 'supply or importation of drugs and medical equipment made by persons recognised by Rwandan laws, for medical use, by patients and disabled persons.'

- The same section defines eligible persons as *'those recognized by the laws of Rwanda as public institutions, not for profit social organisations and any other form of voluntary or charity institution.'*
- It also extends the same treatment to educational services provided to pre-primary, primary or secondary students; educational services provided by social organisations, to students and other youths, meant for promoting the social, physical, educational or spiritual development of the members otherwise than for profit; educational services provided to vocational and to other tertiary institutions as well as educational materials supplied directly to learning institutions.
- With regard to services, the code exempts *'the supply of any goods or services in the course of a person's burial or cremation, including the provision of any license or certificate'* from the application of VAT.
- Provision is made for zero-rating of a number of transactions. It zero rates the supply that is;
 - i) *Funded by the project under the agreement*
 - ii) *Provided by the donor through the Agreement, where the evidence indicate that the supply is made*

pursuant to the terms of the agreement, as the Commissioner General may prescribe.

- iii) *Supplies made to the donor in Rwanda, in the course of implementing donor funded projects.*

2.7. The East African Community Customs Management Act (EACMA)

The EACCMA is a central legislation in the implementation of the East African Community Customs Union Protocol. It makes provisions for the management and administration of Customs within the East Africa Community. One major impact of the Act is that it repealed all the provisions in the Partner States' tax laws that granted customs and excise duty exemptions to local Not for Profit Organizations. As such, the host Partner State is required to pay the customs and excise duties for its NPOs where it previously granted exemptions. Schedule V of the EACCMA makes the following provisions for two categories of exemptions.

Specific Exemptions:

- Goods imported or purchased before clearance through the customs by or on behalf of privileged persons or

institutions

- i) Goods for use by Presidents of the Partner States.
- ii) Partner States' Armed Forces
- iii) Commonwealth and Other Governments
- iv) Diplomatic and First Arrival privileges
- v) Donor Agencies with Agreements with Partner States
- vi) International and Regional Organizations
- vii) The War Graves Commission
- viii) Disabled, blind and Physically Handicapped Persons
- ix) Goods and Equipment for Use in Aid Funded Projects

natural calamities or disaster has occurred and must be imported within a period of 12 months of the permission.

- The EACCMA does not address the basic issues central to promotion of philanthropy. There is no provision for exempting local NPOs from paying customs duties even for goods or services imported for charitable purposes.

This emphasizes the need for a regional approach in seeking to secure an enabling environment for philanthropy in East Africa

General Exemptions

Goods for emergency relief services but within specified quantities shall be exempt from import duty liability. The importation must be done by the government or its approved agent, or a Non Governmental Organization (NGO) or a recommended relief agency. These goods include household utensils, foodstuffs, materials for provision of shelter, health, sanitary and education purposes. The goods must have been intended for use in areas hit by

3. Factors Constraining Philanthropy And Charitable Giving Within The Tax Policy Framework In East Africa

This chapter discusses the responses of the various stakeholders interviewed during fieldwork. It also covers the reactions of the various stakeholders to the efficacy and effectiveness of the current legal and regulatory framework for philanthropy in East Africa.

3.1. The Place of Tax Incentives in Philanthropy in the Region

- One of the functions of an enabling environment for philanthropy is a favourable tax regime. As such, it would be axiomatic that tax policies that extend relief to givers would be an incentive and a catalyst to more giving.
- Whereas most of the corporate respondents in Kenya believe that favourable and easily accessible tax incentives would result in increased giving, respondents in the other countries maintained that their budgets for philanthropy and

corporate social responsibility would remain the same, notwithstanding the tax regime.

- At the individual level, tax incentives may not be effective in promoting philanthropy. Philanthropy should be natured based on a country's values and aspirations, with tax incentives only playing the role of making it easier to give.

3.2. Tax Awareness

- An enabling fiscal regime for philanthropy can only be effective if it is publicly known and utilized. The results of enabling environment campaigns like the one carried out in Kenya are not being felt because most of the would-be beneficiaries are not aware of the existing favourable framework.
- There are no deliberate actions aimed at making the public aware and therefore take advantage of such provisions.

3.3. Transparency in Administering Incentives

- Where tax incentives for promoting philanthropy exist, there were complaints of opaqueness in their administration. Of particular concern was the wide discretion left to tax authorities to determine the organizations that are entitled to benefit from tax reliefs.
- The criteria for determination of eligibility to benefit from tax incentives are not clearly established or published, leaving room for possible abuse. Applications for exemptions are in some instances cumbersome while bureaucratic in others, taking too long hence diminishing the intended benefit.

3.4. The Narrow Thresholds of the Tax Incentives

- The current level of tax incentives for philanthropy in East Africa is quite low. Mainly in form of charitable donations, the percentages of allowable deductions range from 100% of the donation for Kenya to

0.001% turn-over of the donor for Rwanda.

- Tanzania allows the donor to deduct 2% of the income while Uganda allows a deduction of 5%. In Burundi, incentives are only allowed on income that is designed to be invested in vocational information and education. Apart from Kenya where the tax relief is extended to individuals, the deductions are only allowed for corporate donors in Uganda, Tanzania and Rwanda.
- The narrow tax incentives coupled with the lack of awareness on the same reduces the incentives' appeal and hence their incremental impact on philanthropy.

3.5. Lean Tax Nets

Four out of the five countries in East Africa are classified as least developed countries. These countries can hardly collect enough local revenue to finance their operations. As such, they are mostly unwilling to give any fiscal concessions that limit their otherwise lean tax nets. This partly explains the limited tax incentives for donations to charitable organizations. This argument

however obscures the very important role played by these charitable organizations in service delivery, most of the times to areas where governments can hardly reach.

3.6. Credibility of NPOs

Most of the respondents outside the NPOs expressed the view that even where there are favourable fiscal environments that encourage philanthropy, most of the would-be beneficiaries are not transparent and accountable. Some of them asked questions like:

“What is the constituency of the NPOs? Whom do they account to? Why should I give my hard earned resources to people who are going to use it to buy four wheel-drives? I would rather pay taxes ...”

The NPOs must build their credibility and give the public a reason to support the causes they champion. However, if the perception that NPOs are wasteful, not transparent and remain avenues for self-aggrandizement persists, even the most liberal tax regimes would not see any increase in philanthropy.

3.7. Social Enterprises

The taxing of income derived from the commercial activities of the NPOs which are fully ploughed back into the work of the NPOs seems to discourage social enterprise and sustainability of the NPOs. Comparative analyses of how social enterprises are treated elsewhere will be crucial in providing the policy makers with alternatives for regulating social-enterprises without harming the NPOs that engage in the same.



4. Organizations With Tax Incentives And Determinants For Acquiring Tax Incentives

- A number of the not-for-profit organizations in East Africa enjoy exemptions on payment of income tax.
- Incomes generated from commercial activities of the not-for-profit organizations do not attract corporate tax.
- Acquisition of tax incentives are determined by the following factors:
 - i. The nature and type of organization.
 - ii. Compliance with the legal requirements of each regime, mostly expressed in the nature of the purpose of the organization.
 - iii. Applications for classification as a tax exempt organization to the relevant authorities.
- Most organizations are not aware of the requirement for application to the relevant authorities for classification as a tax exempt organization.
- Most organizations do not know how to apply to the relevant authorities for classification as a tax exempt organization.

5. Global Trends In Regulatory, Taxation And Incentives That Could Influence The Growth Of Philanthropy In East Africa

This section examines how other jurisdictions have designed their taxation and regulatory regimes to promote philanthropy. Lessons from the United Kingdom, Netherlands, Germany, and South Africa are outlined in the following table:

	UNITED KINGDOM	NETHERLANDS	GERMANY	SOUTH AFRICA
TAX INCENTIVES	<ul style="list-style-type: none"> Tax relief is available for both individual and business donors 	<ul style="list-style-type: none"> Both individuals and businesses may claim tax deductions for their donations Donations may be in the form of cash, annuities, or in-kind 	<ul style="list-style-type: none"> Both individuals and business are entitled to tax deductions for their donations 	<ul style="list-style-type: none"> Both individuals and business are entitled to tax deductions for their donations
TAX DEDUCTIONS	<ul style="list-style-type: none"> There is no ceiling on the amount of the donation subject to tax relief Tax relief for gifts made by Payroll Giving: <ul style="list-style-type: none"> Payroll giving -- Employee authorizes employer to deduct regular charitable donations from pay; employer then pays these donations to an agency which distributes the money to the charity or charities of employee's choice. Deductions are pre-tax, such that tax relief is included in the donation at the top rate. Through April 2004, Government has matched 10% of donations. Tax relief for gifts made by Gift Aid: <ul style="list-style-type: none"> Allows a charity to reclaim the tax paid by the donor on a gift, increasing the value of donor's gift Donor makes a one-time or regular donation, and provides to charity a declaration that he or she will pay an amount of income tax or capital gains tax equal to the tax the charity claims on their donations. Charity reclaims the tax at the basic rate on the donation from the tax authority. Essentially, 	<ul style="list-style-type: none"> May deduct amount of donations exceeding 1% of gross income or 54 € up to 10% of gross income. 	<ul style="list-style-type: none"> Gifts by Individuals: <ul style="list-style-type: none"> Are deductible up to 5 % of income before the deduction of the donation Are deductible up to 10% where the donation is to scientific and charitable organizations or "cultural organizations recognized as especially deserving of support." 	<ul style="list-style-type: none"> The deduction allowed with effect from the commencement of the tax years ending on or after 1 January 2004 is the sum of such donations but may not exceed 5% of the taxpayer's taxable income as calculated before this deduction or any deduction for medical, dental and disability expenses.

	<ul style="list-style-type: none"> this means that the donation is worth an extra 28% to the charity. Donors who pay the higher rate of income tax can claim the difference between the higher rate of 40% and the basic rate of 22% on the grossed up donation Tax Relief for gifts of shares or other securities: Individuals may deduct from income amount of gifts of shares or other securities Amount that can be claimed is the market value of the investments on the day they are given to the charity Gifts of investments to charity are also exempt capital gains tax 			
QUALIFYING DONEE/ RECIPIENT	<ul style="list-style-type: none"> Donation must be to a registered charity Donation must be to a registered charity. Charity has registered with the Charity Commission Charity must pursue exclusively purposes that are charitable; these are relief of the poor, handicapped, or aged; the advancement of religion; the advancement of education; or other charitable purposes that benefit the community. 	<ul style="list-style-type: none"> Donations may be made to churches, and charitable, cultural and scientific institutions, as well as institutions that serve the general interest 	<ul style="list-style-type: none"> To be eligible for tax deduction, donation must be to "charitable, church, religious and scientific purposes and those public benefit purposes that are especially support-worthy." 	<ul style="list-style-type: none"> Approved Public Benefit Organisations (PBO): A PBO approved by the Commissioner for SARS. This recipient of deductible donations is required to be carrying on a public benefit activity in South Africa. <i>Section 10(1)(cA)(i) entity:</i> These are bodies established under law for the furtherance of its sole or principal object to conduct research or provides services to members of the general public or carries on activities including rendering of financial assistance Approved feeder PBO: This type of entity is required to provide funds or assets to any approved PBO

				<ul style="list-style-type: none">Approved group Section 10(1)(cA)(i) body: A group, approved by the Commissioner, of institutions boards or bodies
			<ul style="list-style-type: none">Businesses may deduct donations up to 0.2% of the sum of turnover and salaries	<ul style="list-style-type: none">The deduction allowed with effect from the commencement of the tax years ending on or after 1 January 2004 is the sum of such donations but may not exceed 5% of the taxpayer's taxable income as calculated before this deduction or any deduction for medical, dental and disability expenses
		<ul style="list-style-type: none">May deduct donations exceeding 227 € up to 6% of annual taxable profits. Gifts that are related to business interests (serve a business purpose) may be deducted without restriction		
	<ul style="list-style-type: none">Gift Aid: Under the Gift Aid system, businesses may deduct the amount of their donations in calculating profits subject to tax.Gifts of shares or other securities: business may deduct amount of gift in calculating profits, in addition to exemption from corporation tax for gains on gifts on investments			
CORPORATE DONORS				

6. Suggested Modifications To The Existing Philanthropy-related Statutes In East Africa

A number of limitations have been identified in the existing philanthropy-related legal framework in East Africa. It has also been observed that whereas tax incentives could be a major plunk towards promoting philanthropy in East Africa, there is also a host of other measures that should go hand in glove with legal reform. This section discusses some of the modifications necessary in the tax laws related to philanthropy in East Africa.

6.1. Deductions Allowable in Computing Taxable Income

The disparities in the deductions allowable when computing taxable income within the East African countries should be eliminated. It is suggested that the practice of deducting all the amounts contributed to charitable organizations from taxable income as currently practiced in Kenya be adopted by the other East Africa states. This will not only promote uniformity in tax administration in view of the EACMA but will also promote unhindered cross-border philanthropy in East Africa.

6.2. Extend the Income Tax Incentive to Natural Persons

To enable promote philanthropy among the natural persons, especially the employed ones, the tax statutes in Rwanda, Burundi, Tanzania and Uganda should be reviewed to enable individuals deduct any amounts donated to allowed charitable organizations from their taxable income.

6.3. Automaticity of Tax-Exempt Status

The current systems in some countries where registration as an NPO and obtaining tax-exempt status are separated seem to be disadvantageous to some NPOs. It is therefore important that the existing laws be changed to grant an automatic tax-exempt status to a duly registered NPO for the purposes of receiving charitable donations.

6.4. Adopt a Harmonized Tax Regime for Philanthropy in East Africa

The East African Community Partner States have made significant strides in

harmonizing their laws and policies in a number of areas. Through the EACMA, the administration of customs and excise duties has been harmonized. It is proposed here that the partner states also take the not so onerous step in harmonizing their tax laws as regards promoting philanthropy. One of the ways of doing so as suggested above is by having a uniform percentage of allowable deductions in computing taxable income when a tax payer contributes to a charitable organization.

6.5 Uniformity in Definition of Exempt Organizations

It was noted in chapter three that the definition of 'exempt organizations' for purposes of charitable contributions and VAT remissions differ depending on the applicable law and country. It is therefore suggested that an all-inclusive and standard definition be adopted for Exempt Organizations.

6.6 Exempt Purposes

There is a lot of discretion bestowed upon the tax authorities in determining whether an NPO is engaged in any one of the exempt purposes. In addition, the activities of NPOs have over the years changed according to the contemporary dictates of the world's challenges. As such, there are some NPOs engaged in activities that 'do not immediately attract the definition of 'ameliorating distress... or be for the benefit of the poor..' but which should fall within the ambit of exempt purpose. The tax laws should be amended to reflect the emerging and contemporary purposes that should qualify for exemptions. Such purposes may include

environmental conservation, human rights, education, democracy and governance.

6.7 Institutionalize Philanthropy

To build a culture of philanthropy, the governments of East African States should consider institutionalizing philanthropy. This can be done through the establishment of the necessary structures aimed at creating public awareness on the subject, vetting and monitoring charitable organizations and approving the latter for tax and other related benefits. This suggestion is based on the observation by stakeholders that revenue authorities and NPO registration bureaus are more occupied with their core mandates hence undermining their capacities to promote philanthropy. What is proposed here is a set up like Charitable Organizations Regulatory Authority or Philanthropic Organizations Board. A practical example is the response to the framework for contributing towards promoting education established under the Tanzania Education Authority (TEA) in the United Republic of Tanzania. The Tanzania Education Fund which is managed by the TEA uses the concept of tax incentives to promote contributions and donations to the Fund as a means of addressing the challenge of scarcity of resources for the development of the education sector. Contributors/givers to the Fund are issued with Certificates of Education Appreciation (CEA) which they can use to obtain tax relief for the amount on the CEA as an allowable deduction under section 16 of the Income Tax Act, No. 11 of 2004. Salaried employees who make payroll contributions to TEA are also allowed a deduction on their Pay As You Earn Returns.

Since inception TEA has seen increased and regular donations and contributions from a wide range of corporate entities and individuals. Whereas it was not immediately ascertainable whether the contributors/givers to the Fund apply for tax reliefs, officials at TEA noted that most of the contributors are attracted to TEA because of the tax relief and recognition of contributions by the Authority.

6.8. The Place of Foundations and Trusts

There is need for a *sui generis* system for registration and administration of trusts and foundations. Such a system will provide the operations of foundations and trusts, their tax liability and define any incentives accruing to them in their activities. As the EAC consolidates its regional integration efforts, it will be important to draw lessons from similarly situated regional organizations in as far the regulation of

charitable organizations is concerned. In this regard it could learn from ongoing initiative in European Union under the framework of the European Foundation Statute.

6.9. VAT and Aid Funded Projects

One major issue raised by stakeholders regarding VAT was the use of donor resources in paying VAT for local purchases. The scope of this study did not allow for a thorough analysis of the likely impact of zero-rating purchases made using aid resources. There were however strong proposals that such purchases should be zero-rated.



7. Current Levels Of Giving And The Potential Impact And Net Benefits Of Tax Incentives In Influencing Increased Corporate And Individual Giving

- The current levels of corporate giving as reflected in the corporate social responsibility (CSR) budgets of the corporate could not be established and relied upon as figures reflective of philanthropic nature of the corporates in the region.
- A number of corporates noted that their CSR budgets will not change much even with tax incentives for charitable giving.
- One major finding of this study is that most corporates do not consider tax incentives when engaging in philanthropic activities.
- Another important finding is that there is very little distinction between corporate social responsibility and corporate philanthropy.
- The two findings above leads to the conclusion that without proper public awareness on the existence of specific tax incentives for philanthropy, the impact and net benefits of the tax incentives will remain minimal.
- At the individual level, the tax incentives could influence the level of giving only to those that make donations of substantial values.
- Individual givers of smaller donations are mostly not influenced by the tax incentives.

Any impact or net benefit of tax incentives to corporate or individual giving is dependent on public awareness on the existence of the incentives and the distinction between corporate social responsibility, marketing and philanthropy.

8. Possible Avenues And Strategies That EAAG Can Employ To Influence Or Make Modifications Of Existing Statutes Or Laws

This study has been undertaken at a time when there seems to be a tacit agreement among the East African Community partner states to have a common approach in legal and policy reforms on matters related to the issues of the Community. Any avenues or strategies suggested must therefore take into account this background. Suggestions made here below are classified into two: regional and domestic. The avenues and strategies are also suggested on the premise that the association has prepared its concrete proposals for reform.

8.1 Regional Avenues and Strategies

As already emphasized, it will be important to have a regional approach to the Associations initiatives aimed at influencing legal reform in the subject area. Under the regional platform, the following avenues and strategies are suggested:

8.1.1 The East African Community Council of Ministers

In order to introduce the subject of tax reforms for philanthropy into the agenda of the EAC, the Council will be the most appropriate level to start from, simply because it is the main decision making organ of the Community. The EAAG will however be required to approach the relevant technocrats in the individual EAC Partner states to introduce the matter for discussion into the EAC agenda. The best strategy here would be to talk to the individual officers in the ministries of finance and EAC Affairs in the partner states as it is these officers that ultimately determine the agenda of the Council.

8.1.2 The East African Legislative Assembly (EALA)

EALA can be a good avenue for influencing a regional policy within the EAC. EALA can adopt a resolution requesting the Council to act. EALA can enact a bill on promoting philanthropy in East Africa, reflecting the reforms that

the EAAG will be seeking to entrench. The strategy for engaging EALA should be didactic. On the one hand it could be approached through the Council as the Council is by Treaty empowered to initiate a bill and submit to the Assembly for enactment. The other route would be to directly approach EALA through the speaker or a member.

8.1.3 Regular Engagement on EAC Affairs at the National Level

The regional frameworks for decision-making very much depend on what the partner states submit for discussion. To influence what happens at the regional level therefore, EAAG must take a keen interest in learning how the EAC decision making system works. This can only be possible through regular participation and engagement with national structures for consultation. Consultations at the national level are coordinated by the Ministry in charge of EAC Affairs in each country. The EAAG and its members should engage these ministries and those of finance in their home/host countries.

8.1.4 The EAC Secretariat

For the purposes of dealing with the EAC Council, it will be important to identify the relevant line officer at the EAC Secretariat to assist the Association with the necessary information and going through the procedural requirements in submitting its proposals to the EAC.

8.1.5 The East African Business Council and the East African Civil Society Forum

These two institutions, though not organs of the EAC, could be good avenues for building the critical mass needed for influencing the organs of the Community into the action desired by the Association. EABC will be important in bringing the regional private sector players into the campaign while the civil society forum will ensure that the East Africa civil society act in concert in championing for the adoption of the desired reforms.

8.1.6 National Avenues and Strategies

Just like at the regional level, engagement at the national level must be done through the policymakers and decision-makers in the relevant institutions in the EAC Partner States. The Association will have to engage with the relevant ministries in all the EAC Partner States as well as with other identified stakeholders. Avenues at the national level will include:

- Offices of the ministers for finance, EAC affairs, home affairs e.t.c
- Offices of the permanent secretaries in the identified ministries
- Parliaments of the EAC Partner States
- Civil society organizations
- Private sector organizations
- The citizenry.

9. Recommendations On Advocating And Lobbying For Tax Incentives For Philanthropy

A number of issues to be addressed have been identified in the study. It is important for the EAAG to develop a workable strategy for advocating and lobbying for the desired reforms. This section makes recommendations on advocating and lobbying for tax incentives for philanthropy. The suggestions are only indicative but not all-inclusive.

9.1 Research and Documentation

The lack of readily available information on the subject of philanthropy makes it difficult for policy makers to readily identify with and support initiatives that promote philanthropy. EAAG will therefore have to continuously research, document and disseminate information on philanthropy to the relevant stakeholders. Challenges facing the sector as well as suggested policy interventions must be properly and regularly documented to facilitate the policymakers in designing options for intervention.

9.2 Sustained Public Awareness

The levels of awareness on tax incentives aimed at promoting philanthropy

determine the impact of the incentives and the growth of philanthropy. It is through awareness of the existing incentives that lessons for future reforms to make those incentives more beneficial can be drawn. Lack of awareness on the other hand makes giving more expensive, more burdensome. Advocating and lobbying for an enabling environment for philanthropy hence requires sustained public awareness and capturing the imaginations of the masses on what such enabling environment can achieve.

9.3 Resource Mobilization

As indicated by one of the permanent secretaries in the EAC Partner States, reviewing tax laws and policies is not a very easy matter. It requires consensus built among the relevant stakeholders overtime, coupled with consistent lobbying and advocacy. These in turn require more than modest financial and human resources. The EAAG is therefore advised to mobilize adequate resources that can see it through the numerous advocacy and lobbying activities.

9.4 Training and Capacity Building

Reading and interpreting tax codes as well as preparing the requisite applications by the NPOs to access the incentives require specialized training. To bring on board as many stakeholders as possible in the advocacy, EAAG should conduct targeted training to selected stakeholders to enable them engage in the process and for them to own the campaign and the embedded messages.

9.5 Promote Transparency and Accountability within the NPOs

Tax incentives will only be effective in promoting philanthropy when the public perception about the NPOs is positive. Deliberate steps ought to be taken to revamp the not-for-profit sector in East Africa with the focus on inculcating transparency and accountability in the management of NPOs. This will in turn spur public confidence in the sector with a high likelihood of increased appreciation of the sector's role which should in turn see more individuals and corporations willing to support their causes.

9.6 Create a Regional Network for Promoting Philanthropy

With contacts made overtime and during the country visits, the EAAG should create a reliable network of organizations that will help lobby and advocate the desired reforms across East Africa. The network will be crucial in simultaneously engaging with national avenues and sending consistent messages to the policymakers

on earmarked reforms.

9.7 Replicating Regional Best Practice

It would be instructive for the Association to identify and advocate the replicating of some of the regional best practices in the region. For instance, the case for wholesome deductions made to charitable organizations from taxable income as is practiced in Kenya should be easily sellable in the other East Africa countries. Initiatives like the ones adopted by the Tanzania Education Authority to promote giving to the education sector should be packaged in a way that attracts other sectors.

9.8 Push for the Establishment of a Task Force at the National and EAC Level

In order to institutionalize consultations and engagement with the decision-makers, the EAAG should explore the possibility of the governments of East African Partner States to dedicate task forces for addressing fiscal issues relating to philanthropy. This could also be done at the EAC level to give the association an entry and regular contact point in its campaign.

10. Way Forward To Promoting Philanthropy In East Africa

The study established that whereas the tax policy environment as reflected in the tax incentives for charitable giving has a major role to play in promoting philanthropy, the potential impact of tax incentives in this regard is over-emphasized. It is therefore important that the EAAG considers other alternative interventions for promoting philanthropy in East Africa, as advocates for a better tax environment.

i. Tapping into Unclaimed Assets

The literature review for this study revealed that a bigger percentage of the resources utilized by the NPOs in East Africa are externally sourced, with a small percentage coming from sources within the region. One of the ways through which local philanthropy could be promoted in East Africa would be through the use of innovative means of unlocking idle resources and directing the same to the beneficial sectors in the society. One class of resources that are highly underutilized and could assist in giving a new impetus to philanthropy in East Africa is the unclaimed assets.

In order to explore the possibility of

releasing the unclaimed assets for charitable causes in East Africa, it is recommended that the EAAG initiates a comprehensive review and understanding of the concept and nature of unclaimed assets in the region, the legal and institutional frameworks for their management and current mechanisms for disposal. This will then be followed with wide and relevant stakeholder consultations on the best and appropriate mechanism for unlocking these assets for philanthropy without undermining the ability of the rightful owners to access the same once traced. The EAAG will then lead the process of developing national and regional legal and institutional frameworks for the release of unclaimed assets for charitable and agreed purposes.

The proposal for unlocking the unclaimed assets for philanthropy requires long-term commitment of resources and the inculcation of the necessary goodwill and political will among the business and political classes respectively.

ii. Distinguishing Corporate Philanthropy from Corporate Social Responsibility

The EAAG should develop a program aimed at nurturing corporate philanthropy. This proposal is based on the finding that most corporates take their CSR activities to mean corporate philanthropy, which is hardly the case.

The concept of corporate social responsibility often overshadows corporate philanthropy, but the two are very different. Corporate social responsibility is about obeying the letter and the spirit of the law – being ethical, transparent, fair, and having integrity. These are important tenets for all companies but they do not have any bearing on philanthropy.

Towards promoting philanthropy in the region, it is therefore important for EAAG and its partners to take reasonable measures to create public awareness and develop a culture of corporate philanthropy as distinct from CSR.

iii. Rooting A Sense Of Social And Civic Responsibility Into Intrinsic Values

To grow the practice of philanthropy in the long term, there is need to root a sense of social and civic responsibility into intrinsic values, then building awareness. This awareness and personal connection needs to be nurtured in people from a young age, and that more young people need to be exposed to other environments and foreign cultures. We need to intentionally bridge the gap in experience

and in human empathy between those who have and those who are in need. And along with cultivating philanthropic values amongst individuals, and at the school and university level, cultivating philanthropic values also needs to occur broadly within governments and the business community. There needs to be much more public awareness and education about philanthropy – what it is, why others do it, and what it accomplishes. Likewise, it will be important to educate and sensitize the media, making them partners in social change.

The EAAG should find resources for developing partnerships aimed at public awareness and rooting a sense of social and civic responsibility into the region's intrinsic values.

iv. Assist in Making Philanthropy Have More Impact

If philanthropy is to make a difference, money is not enough – funds must also be invested wisely. Besides disinformation about what constitutes philanthropy and its work, there are mixed views around the region concerning its credibility, performance, and utility. Certifiably reliable organizations require quality assurance, effective governance, standardized and published “codes of practice”. The sector would also benefit from the support of strong research organizations and more watchdog groups. The EAAG could lead the process of making philanthropy work for the donors and the beneficiaries in the region. EAAG should find ways of

communicating the outcomes and impacts of philanthropy as a way of encouraging potential givers to support philanthropy in the region. Such an initiative could help redeem the image of the NPO sector and rejuvenate philanthropy.

v. Training and Capacity Building

One further area that the EAAG may need to address is how to manage the generational transfer of wealth. If philanthropic giving is nurtured and encouraged in the region, how will the sector channel and manage the growth that could occur over the next couple of decades? This will require a lot more robust capacity, coordination, and alliances -- in many dimensions -- than the sector enjoys now.

For instance, considerations concerning how organizations will attract, retain, and manage qualified and dedicated staff. Or how they will develop, inspire, and transition their leaders. And preparing, sustaining, and refocusing grantors and grantees for the long-term, for changing operating environments and changing needs. Philanthropy will need much better educated donors -- among fundraising and grantmaking professionals there will always be a need for more professional development. These and many would-be donors frequently raise issues around the perceived complexities of giving and especially the challenges of doing so from a distance. A 2000 survey by the Philanthropic Initiative found that many professional advisors -- including private bankers, estate and financial planners,

investment professionals, insurance advisors -- would welcome advice and training themselves on new philanthropic tools and strategies in order to better serve and meet the needs of their philanthropic clients.

The general giving-public too -- those millions of individual donors around the world -- will require throughout their lives more consistent reminders and user-friendly instruction about how to give as well as information and resources which are current and relevant. This basic orientation about and promotion of the practice of philanthropy will be an essential part of creating a giving culture.

These challenges will require continuous training and capacity building for targeted stakeholders.

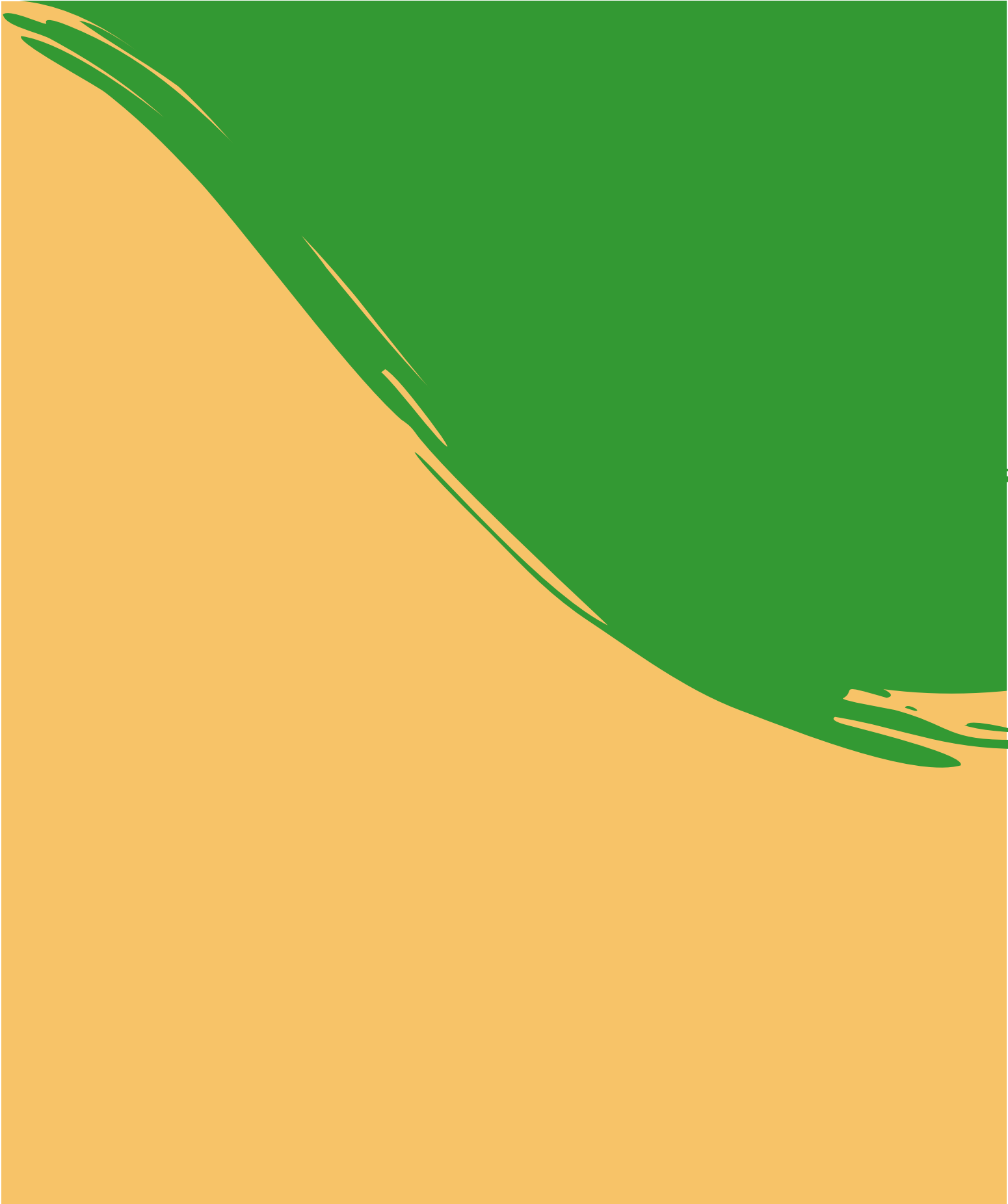


11. Conclusion

Nurturing institutionalized philanthropy will require more than a favourable tax environment. It requires a wide range of factors that constitute an enabling environment for philanthropy. However, regardless of the ongoing debate over the extent to which tax incentives boost philanthropy, a country's overall regulatory and fiscal incentives do tend to support or discourage philanthropy. In addition to incentives, there need to be philanthropic mechanisms that stimulate giving as well as that make it easier, such as internet portals or better sources of information. Likewise, there should be consistent and long-term external support of grant making in countries where governments are still hostile to an emerging civil society.

The task before the EAAG and its partners as they seek to nurture philanthropy in East Africa is not an easy one. Yet, it is also not unachievable. Efforts must be made and concerted towards implementing some of the recommendations made herein.

Unequivocal governments' support for philanthropy that goes beyond one-off disaster driven calls for alms should be sought and encouraged. Above all, rooting a philanthropic culture in our national and regional intrinsic values singularly portends a positive direction for the growth of philanthropy in East Africa.





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