

CHOOSING THE RIGHT BUSINESS STRUCTURE: **NON-PROFIT**

Non-Profit Structures.

Kenya also provides for detailed structures for non-profit ventures that do not distribute profit to members. In Kenya, they are also referred to as Civil Society Organizations (CSOs). These include;

Public Benefit Organization (PBO)

This is a non-profit entity focused on social, environmental, humanitarian and developmental causes. They are provided and registered under the Public Benefit Organization Act, and governed by the (PBO Authority), replacing the NGO Coordination Board. The authority deals with registration, deregistration and oversight of compliance. They are exempted from certain taxes, as reviewed by the KRA. Have access to substantial funding through donors and grants. However, they are subject to strict government scrutiny and rigorous registration process. For a foreign PBO, at least one-third of its board members should be Kenyan citizens. It is ideal for organizations carrying out community development projects, charitable and advocacy programs.

While the PBOs Registered under the PBO Act are explicitly established to pursue public benefit objectives, other CSOs may carry out public benefit activities through other structures as explored below;

·Company Limited by Guarantee.

This is a non-profit company structure without a share capital. It is provided for under the Companies Act 2015 and registration is through the BRS. Liability of the members is limited to the nominal sum they undertake to contribute to the company, that is, a guarantee, rather than share. It offers perpetual succession and has the ability to own property in its own name. Taxation follows the cooperate rules but exemptions are available upon application to the KRA for qualifying activities. It is suitable for charitable, educational, and religious purposes, where one is seeking limited liability.

·Trust

This is a structure for holding and managing assets for charitable, religious, educational, and community purposes. It is registered under the Registration of Documents Act and can be incorporated under the Trustees Perpetual Succession Act through the BRS to gain the corporate status. Trustees hold the property independently, with liability generally limited once incorporated. Taxation is subject to KRA review for exemptions. It provides strong asset protection and management flexibility as per the terms of the Trust Deed. However, it requires compliance and reporting. It is ideal for foundations, religious bodies, long term community asset management and even in succession.

·Society

This is the simplest association for groups with shared interest such as welfare, community development, sports and clubs. Registration is mandatory and requires at least 10 members. It is done under the Societies Act via BRS. Under the Societies Act, it is illegal to run and operate an unregistered Society. Taxation is minimal with possible exemption for non-profit activities. It involves low set up costs and basic paperwork but requires annual returns and compliance. It is ideal for local clubs, advocacy groups, and community development programs seeking legal recognition, without setting up complex structures. Religious organizations are also registered under the Societies Act.