

# CHARITABLE STATUS OPERATIONAL FRAMEWORK

## Introduction

On July 15, 2013 the Charitable Organizations (Tax Harmonization) Act 2013 was passed in Parliament. In addition, later in 2013, a bill entitled as Charities Act 2013 was passed. These two pieces of legislation have paved the way for amateur sports to benefit from tax relief.

The Harmonization Act amends Section 2 of the Income Tax Act to define a charitable purpose if it is carried out solely for the public benefit, namely:

- a) The prevention of relief of poverty;
- b) The advancement of education;
- c) The advancement of religion;
- d) The advancement of health or saving of lives.
- e) The advancement of good citizenship or community development;
- f) The advancement of the arts, culture, heritage or science;
- g) The advancement of amateur sports;
- h) The advancement of human rights conflict resolution or reconciliation;
- i) The promotion of religious or racial harmony or regularity and diversity;
- j) The advancement of environmental protection or improvement;
- k) The relief of those in need because of youth, advanced age, ill-health, disability financial hardship or other disability;
- l) The promotion of the efficiency of the armed forces;
- m) The advancement of animal welfare; or
- n) A purpose specified by the Minister subject to negative resolution of the House of Representative as being analogous to any of those in the preceding paragraphs

## New Development

As there are no established professional sporting leagues in Jamaica, all sport being played has been captured under paragraph (g) above.

This now means that National Sporting Associations can apply to be registered as Approved Charitable Organizations

## **What does Charitable Organization Status mean?**

An approved Charitable Organization is eligible for tax exemption or relief under the Income Tax Act, GCT, Stamp Duty, Transfer Tax, Property Tax and Customs Acts. This qualifies the Approved Charitable Organization for the following:

- a)** Exemption of its income under Section 12h of the Income Tax Act. (Financial institutions are being advised not to withhold tax on the income of the organization on presentation of an approved charitable organization certificate)
- b)** Zero-rating of goods and services acquired for the charitable purposes under Group9, Part 11 of the First Schedule of the GCT Act.
- c)** Refund of GCT paid under Section 43 of the GCT Act (to be claimed within two years of purchase).
- d)** Exemption under Section 10 (1)(b) of the Property Act
- e)** Exemption under the Stamp Duty Act –Conveyances
- f)** Exemption under Section 17(1) of the Transfer Tax Act
- g)** Exemption under Section 5(2) of the Customs Act

The amount or value of donation made to the Approved Charity is to be an allowable expense in the books of the donor under Section 13(l) (q) of the Income Tax Act (subject to statutory limit).

## **How to apply for Charitable Status**

Application of approved Charitable Status is achieved by submitting:

- a)** Certified copy of documents of incorporation including schedule of the objects and powers of the organization. If organization was incorporated by an Act, a copy of the relevant Act
- b)** Copy of the TRN certificate
- c)** Copy of Tax Compliance Certificate
- d)** Letter requesting approval of charitable status
- e)** The required application form which is available from the Department of Co-operative & Friendly Societies

These documents are to be submitted to:

Ms. Kassandra Fogiety  
Acting Senior Secretary  
Department of Co-operatives & Friendly Societies  
2 Musgrave Avenue, Kingston 10  
Tel: 927-4912/6572  
Fax: 927-5832  
Website: [www.dcfSJamaica.org](http://www.dcfSJamaica.org)  
Facebook: Department of Co-operative & Friendly Societies

### **After Approval**

Once charitable status is granted this approval will be for two years and the charitable organization will be issued with an Approved Charitable Organization Certificate.

During the two year period all approved charities will be audited by Tax Administration Jamaica (TAJ) to ensure that the charitable purpose is still being carried out.

At the end of each financial year the charitable organization must file its audited financial statements with the Department of Co-operative & Friendly Societies.

New applications must be done one month prior to the expiration of the two years.

### **Who should apply for Charitable Status?**

All duly incorporated National Sporting Associations possessing the required documents can apply for charitable status. At the very least the Sports Development Foundation (SDF) recommends that the following associations/organizations apply for charitable status.

### **Associations**

Jamaica Olympic Association  
Jamaica Athletics Administrative Association  
Jamaica Badminton Association  
Netball Foundation of Jamaica  
Jamaica Table Tennis Association

Jamaica Football Federation  
Jamaica Basketball Association  
Jamaica Cricket Association  
Jamaica Chess Federation  
Jamaica Volleyball Association

## **Organizations**

Independence Park Limited  
Institute of Sport

### **Now that I have achieved Approved Charitable Organization Status, what next?**

Once an organization receives charitable status then this is recorded at the Companies Office of Jamaica.

The Approved Organization should send certified copies of the certificate to for example:

Customs House  
Customs Department at the airport  
Financial Institutions  
Lawyers  
Customs Broker

## **IMPORTATION OF ITEMS**

### **A. Unaccompanied Luggage**

Once charitable organization status is received, approval for waiver to import sporting goods and equipment must be obtained from the Commissioner of Customs.

The application to the Commissioner of Customs which is done before **every importation** will include:

- a) The invoice for the goods being imported
- b) The bill of lading
- c) The special declaration made about the goods (sample attached with JCA procedures)

**These documents must be sent in prior to the arrival of the goods at the port.**

The invoice and bill of lading must be done in the name of the approved charitable organization.

## **Affiliated Clubs and Groups**

Affiliated Clubs and groups will not automatically received relief of Customs fees unless the affiliated club is expressly stated in the legal document of the National Association.

For example if Harbour View Football Club is importing football gears received as a gift or purchased, they would not receive relief as Harbour View Football Club unless:

1. Harbour View Football Club applied and received charitable status in its own right or
2. The incorporation document of the Jamaica Football Federation lists Harbour View Football Club as an affiliate or associated organization.

This means that National Sporting Associations that are awarded approved Charitable Status will have to institute systems to manage the importation of goods/equipment of their affiliated clubs and groups as goods imported by these entities will have to be done through the National Sporting Associations if customs duty relief is to be received.

Please note that if, for example, the goods are consigned as follows:

Harbour View Football Club  
c/o the Jamaica Football Federation

Then both the Jamaica Football Federation and Harbour View Football Club must have approved Charitable Status to receive relief of the duties chargeable for the goods being imported.

**Please note in relation to the importation of items, these items must be necessary and satisfy the requirements outlined in the charitable purpose for which the organization is set up.**

**In other words, as it relates to sport, the items must be necessary for the playing of the sport.**

## **B. Accompanied Luggage**

If the goods/equipment is part of the accompanied luggage, then the passenger bringing in the goods must have:

- a) Letter stating that the National Sporting Association authorizes the importation of these goods in the custody of the passenger and the intended purpose for these goods
- b) A certified copy of the Approved Charitable Organization Certificate
- c) Prior to the passenger arriving at the airport, the National Sporting Association must inform the Customs Department at the airport that the respective passenger will be in possession of the goods.

An example of this situation is the team manager returning to the island from a sporting competition/championship with extra gears not dispatched to the athletes who participated in the competition/championship.

For sporting personnel importing more than 3 but less than 13 similar items into the island, the additional amount will be treated as goods for sale and will attract duties at the airport.

For example an athlete importing 14 pairs of sporting shoes, the additional 2 will be treated as goods for sale.

## **C. Tickets for Sporting Events**

Tickets imported for sale to sporting events, for example football and cricket matches, will be treated as commercial activity as the tickets are intended for resale. Therefore in this case, full duties will apply.

## **Customs Fees Payable with Approved Charitable Status**

On importation all approved Charitable Organizations will **not be exempt** from:

- a) Customs Administration Fee (CAF)
- b) Environment Levy
- c) Special Consumption Tax
- d) Stamp Duty

All of the above are charged at the ports by the Jamaica Customs Agency (JCA)

## **Role of the Sports Development Foundation (SDF)**

The Sports Development Foundation (SDF) as constituted is not an umbrella organization for National Sporting Associations. However the SDF will assist primarily small National Sporting Associations to import sporting goods/equipment.

### **Procedure**

1. Each National Sporting Association requesting this service must first write to apply. The application letter must state:
  - a. When are the goods expected to arrive
  - b. A detailed description of the goods/equipment being imported
  - c. Whether the goods are being donated or purchased
  - d. If the items are being purchased, how will they be paid for
  - e. How the related customs fees (CAF etc.) will be paid
2. Once the approval is granted by the SDF, the National Sporting Association has a maximum of five (5) days to submit the respective invoice for the goods. The goods must be consigned to the SDF. If the Bill of Lading is available at that time it must also be submitted.
3. For accompanied luggage through the airport, the request must be sent prior to the person's arrival.
4. In relation to affiliated clubs, the National Sporting Association must apply on behalf of these clubs.