

THE NGO TAX REGIME & THE ENABLING ENVIRONMENT FOR PHILANTHROPY IN GHANA

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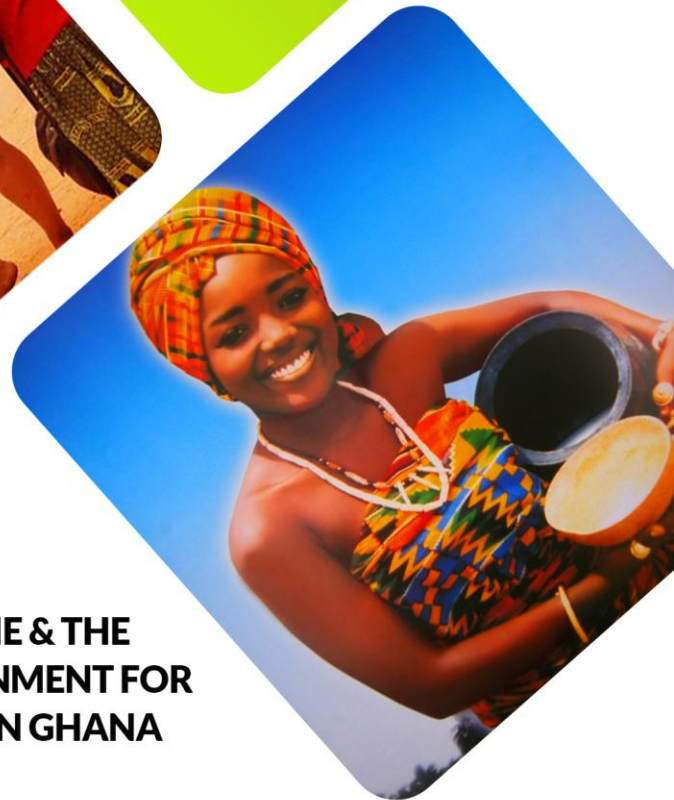
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ACRONYMS AND ABBREVIATIONS

| | |
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| CET | Common External Tariff |
| CSO | Civil Society Organisation |
| CSR | Corporate Social Responsibility |
| DSW | Department of Social Welfare |
| ECOWAS | Economic Community of West African States |
| FBO | Faith Based Organisation |
| GDP | Gross Domestic Product |
| GIPC | Ghana Investment Promotion Centre |
| GRA | Ghana Revenue Authority |
| NGO | Non-Governmental Organisation |
| NHIL | National Health Insurance Levy |
| NPO | Non-Profit Organisation |
| SDGs | Sustainable Development Goals |
| VAT | Value Added Tax |



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Lastly, a heartfelt appreciation to all those who made time to contribute to the success of this report




FINDINGS

ENDORSEMENTS

1. There exists a conventional culture of giving towards charitable causes in Ghana by individuals, communities, corporate bodies and Ghanaians in the diaspora. This is, however, done in small unstructured forms and is normally reactive and emergency-based.
2. The NGO sector in Ghana is operating under extremely difficult financial conditions. To an extent, this may be attributed to the inadequacy of donor aid and 'donor fatigue.' NGOs are compelled to look for alternative ways to resource such as seeking local donations, and exploring the 'earned income' options.
3. All respondents were of the view that tax incentives will encourage giving among Ghanaians.
4. Tax benefits for NGOs are a progressive idea because the NGO sector is supporting government in development.
5. A good NGO-focused Tax policy would help Ghanaians structure how

RECOMMENDATIONS FOR REFORM

1. The need to clearly define the conceptual terms of Charity, Philanthropy and Social Enterprise and properly categorise NGOs in the sector.
2. The need for clear guidelines and rule-based systems to administer all aspects of exemptions, and database systems for exemptions processes.
3. The absence of a practice note in the arena of exemptions administration has also sometimes resulted in an ad hoc process, which takes time to streamline and is often complicated.
4. The need for clear enforcement and monitoring mechanisms to ensure that goods are used for approved purposes. In the absence of regulations prescribing the approval process, NGOs have suffered losses including huge demurrage and rent charges at the Port. The law however does not prescribe remedies for such losses, which are often costly to the NGOs.
5. There is need for periodic engagements to sensitize stakeholders on our tax laws and application, to avoid situations where the authorities and the tax payers (including NGOs) are poorly informed and fail to properly satisfy filing requirements and reporting.

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6. There is need for Government to provide financial support to NGOs/CSOs to ease the financial burden on them.
 7. Establish tax exemption identification numbers for NGOs and a scheme for assigning tax exemption status for qualified NGOs.
 8. Expand list of exempt purposes beyond Education and Health activities.
 9. An NGO Policy should create a conducive framework for NGO operations, introduce tax incentives and promote general understanding and recognition of NGO work. It should provide pathways to address NGO transparency and accountability, legal and regulatory issues in accordance with international laws, norms and best practices.

PROSPECTS FOR PHILANTHROPY

Respondents were of the view that prospects for Philanthropy in Ghana would be very high should Government pursue the recommended reforms.



GENERAL INTRODUCTION

1.1 Background of Study

Ghana has a vibrant culture of personal giving and charitable contributions, which offers hope for increased domestic resourcing and more effective and sustainable civil society organizations (CSOs) in this time of declining global support. However, the policy and legal frameworks for organized forms of giving/philanthropy in Ghana are lacking. It is difficult to find consistent and regularly-produced information on the nature and extent of organized giving and corporate social responsibility (CSR) engagement to facilitate collaboration and ascertain impact.

In May 2018, the International Center for Not-For-Profit Law supported a research to identify and document current regulatory provisions that influence philanthropy; and to identify and develop specific positive policy reform recommendations.

The rationale for this study was to help improve understanding amongst non-profits, government and other stakeholders on philanthropy in Ghana. It is also aimed at suggesting legal and administrative framework required to strengthen the philanthropy space.

1.2 Study Focus, Scope and Methodology

The study sought to examine the extent to which existing tax laws support the growth of philanthropy in Ghana, and make recommendations for reforms towards a more facilitative legal regime. Specifically, the report records the current laws and regulatory provisions and examines their effects on philanthropy.

The study was designed by the Ghana Philanthropy Forum and piloted with actors in the NGO/CSO sector through a literature review and a survey of relevant stakeholders and opinion leaders in the NGO/CSO sector, government, private sector and the general public.



MAP OF GHANA



The study was deployed through three zones captioned as, the Northern Zone, the Middle Zone, and the Southern Zone. This was done in order to capture a uniform representation from the entire country. The study involved 12 Focus Group Discussions, 62 In-depth Interviews. In all, 117 respondents took part in the study. Respondent data is disaggregated and presented in the appendix.

The data collection instruments were used to establish the experiences of respondents and what they thought ought to be done to remove experienced or perceived constraints. The study also reviewed other issues that are pertinent to the development of the Philanthropy space. Further comparative analysis was done with other countries' experiences. The final report was subjected to peer-review and critique in a validation workshop by key NGO/CSO representations, before being refined for publishing. The report highlights inadequacies, raises questions and concerns, and offers suggestions in the form of proposals.

1.3 Assumptions

The following assumptions were made at the start of the study;

1. Global and national development goals can only be addressed through collaborative partnerships between the state and civil society among other players.
2. An enabling tax environment (tax deduction provisions for individual donors and corporate bodies) inspires indigenous giving.
3. Tax incentives strengthen and enhance the culture of philanthropy among individuals, philanthropists and corporate bodies.
4. Broadening of donor deductibility benefits under the tax law would facilitate the flow of larger individual and corporate social investment funds to the critical social sectors.
5. The key beneficiaries of an enabling tax environment for philanthropy will be the Ghanaian public and charitable organizations including corporate bodies.
6. The main barriers to the use of existing tax incentives are lack of awareness of the incentive.

1.4 General Objective of the Study

The overall objective of the study was to produce a report that would enable all parties and stakeholders to gain a better understanding of the state of philanthropy, also to understand whether tax incentives could promote philanthropy in Ghana. In this report NGOs and CSOs will be used interchangeably to mean the same.



1.5 Specific Objectives

The specific objectives of the study were to:

1. Embark on a nationwide exploratory study, to assess whether tax incentives motivate individuals and entities to engage in local philanthropy and, if so, how.
2. Analyse the policy, legal and regulatory framework for philanthropy in Ghana; identify possible contextual and structural barriers and ascertain public views on these issues.
3. Propose possible practical interventions that can promote a vibrant philanthropic sector.

1.6 Justification for NGO Tax Law Reforms

General Rationale

- Philanthropy is an important element in the construction of a progressive society because: it facilitates community and private action in the public space; supports innovation and creates possibilities for social transformation; generates social capital; provides moral leadership; and is a cost-effective means of delivering social and developmental projects.
- NGOs need support to secure the survival of their operations. With increasing work burden and decreasing foreign resources, NGOs are at risk of grounding their operations. Concerned for the survival of their work, they have begun looking inward, and identify tax benefits for philanthropy as one viable way to increase their resources locally.
- Fiscal support for NGOs makes economic sense. International experience shows a high correlation between private giving and tax benefits for NGOs and their donors.
- Global trends in fiscal policies on NGOs are favourable for expansion of tax benefits for NGOs.

Ghana Specific Rationale

- There is already an established culture of giving to charitable causes in Ghana by individuals, corporations, communities and Ghanaians living abroad through an established civil society as intermediary. It is however un-organised and reactive. Expansion of tax benefits will lay the framework for planned and organised philanthropy and asset development.
- Kenya, South Africa and Uganda are jurisdictions comparable to Ghana and offer good examples of progress in the tax reform direction for Ghana.



UNDERSTANDING PHILANTHROPY

2.1 Definitions and Conceptual Understanding

Here, we reviewed the general perceptions about charitable giving. Philanthropy, just as charity is not a new concept in Ghana. It was and still is being done but not consciously and most often not structurally. This section seeks to examine the perceptions of stakeholders regarding charity, philanthropy and corporate social responsibility as against global views. Furthermore, the section highlights the similarities and/or differences between the three according to those interviewed.

2.2 Charity and Philanthropy

Charity is a word that is common in the vocabulary of many and there are various dimensions to the ways in which it is explained. According to Sharon Davis, Co-Founder of Giving Well, charity is part of culture, something most people experience early in life through family, community, school, the workplace and other avenues. It is impulsive, emotional and often temporary in terms of solving issue; like giving a coat or a meal to a homeless person. She explains it as a “fix for the moment not solving the problem.” Respondents interviewed defined charity as the coming together of a group of people or persons to change the situation from worst to better or helping to solve a social problem at a particular time or period. According to others, charity is the excess a person gives out; it is identifying a need and contributing either resources or physical strength towards its solution.

In the same manner, respondents view charity as donating items, assets, etc. to orphanages, socially disadvantaged groups or benevolence shown to the less privileged in society in the form of money or other tangible gifts. Charity is equated to an extension of love to those in need.

Generally, just like most literature on charity, respondents view charity as a service executed willingly towards the less privileged to improve their current state of life with no expectations, especially monetary rewards, in return. Several individuals interviewed construe philanthropy as a long term solution for the less privileged just as Sharon Davis, who explains it as a much broader concept that looks to get to the root of the problem and find solutions. Respondents opined that philanthropy is a desire to make a gift to the less privileged in particular to solve a problem.





Comparing charity and philanthropy, some are of the view that they are the same, others think they are similar with slight differences, while others see them as entirely different concepts. Respondents held analogous ideas to this. Some opined that though philanthropy and charity are used interchangeably, there is a slight distinction between the two when examined critically. For many respondents, the underlying principle for philanthropy and charity is in the way the giving is done. Some also aligned philanthropy to the acts of Philanthropists. In other words, they see philanthropy as belonging to some group of high net wealth individuals.

Some respondents describe charity as more or less finding the immediate need of people and trying to help them whereas philanthropy is finding a sustainable solution to the problem.

Some individuals suggested that philanthropy stems from an intrinsic desire to address social problems and is more organized and well-structured as compared to charity which may not necessarily stem from the deeper feeling, and the quantum of resources involved in philanthropy is of a higher volume than that of charity. Some perceived philanthropy to be premeditated and charity to be a spur of the moment.

In conclusion, it was observed that the distinction between the term Charity and Philanthropy is not as apparent as one would expect. Charity is broadly understood as compared to the term Philanthropy.

2.3 Corporate Social Responsibility

Investopedia defines corporate social responsibility (CSR) as a self-regulating business model that helps a company be socially accountable to itself, its stakeholders, and the public. Consequently, practicing CSR makes companies conscious of the kind of impact they are having on all aspects of society including economic, social, and environmental. Thus, engaging in CSR means that a company is operating in ways that enhances society and the environment, instead of contributing negatively to it. Similarly, respondents explain CSR as the contribution of an organization to the socio-economic conditions of the environment in which it finds itself. Various individuals interviewed were of the opinion that corporate giving falls under the mandate of a profit making company where it seeks to provide some benefit to the community by way of giving.

Study participants were clear that CSR is completely different from charity and philanthropy. They further explain that charity and philanthropy looks at giving willingly without any pressure, but corporate institutions have to give back to the society as a business strategy to get people to patronize their products.



Few respondents described it as charity while others said it is a marketing strategy. Most respondents had the impression that CSR is used to reduce tax burdens, however; others thought some institutions give back to communities because their activities destroy or harm the environment.

Generally, respondents were of the view that philanthropy, charity and CSR have lots of similarities in terms of consideration of the general social good.



THE CONTEXT OF THE THIRD SECTOR

3.1 Policy & Regulatory Framework

Ghana lacks well laid out regulatory frameworks that govern philanthropy organisations. These are described as fragmented, where several laws, policies and institutions regulate operations of philanthropy organisations. There are also a number of oversight ministries, state departments charged with overseeing the NGO sector. Respondents complained of having difficulties complying with these different regulatory bodies as they are seen to be complicated, time-consuming and costly.

Ghanaian NGOs also lack definition and classification. A proper categorization process is needed for all non-governmental organizations and social enterprises. It is important to acknowledge that government is reviving the engagement of CSOs/NGOs which will help in advancing positive developments of the Philanthropy sector.

3.2 NGO Statutory Requirements: Registration & Renewal and Filing of Annual Returns

All respondents were aware of the need to register with the Registrar Generals' Department and subsequently with the Department of Social Welfare (DSW). Furthermore, most were aware of the need to file Annual Returns. NGOs also have to renew their registration with the Registrar Generals' Department and the DSW. Both processes seem to pose some challenges to the NGO sector. Majority of respondents thought that the registration and renewal processes take too long. Over 80% of respondents were however not sure of what the returns entails and therefore do not make it a priority.



Figure 1: Statutory Compliance for NGOs Re/Registration Process

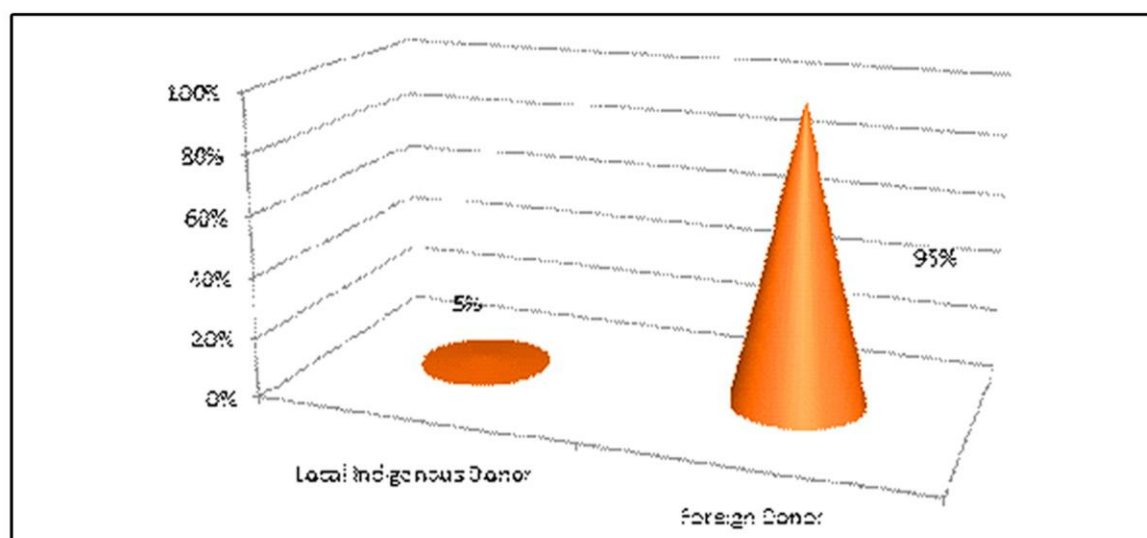


The figure above describes the experiences of the respondents pertaining to the registration and re-registration process. A combined total of 80% stated that the process is either demanding or impossible to complete without help. 8% indicated that the process is simple while 5% said the process is difficult but manageable. 6% of the respondents stated that they could not complete the process because they lacked help.

3.3 Funding for NGOs in Ghana

The studies found that, majority of NGOs receive less than 5% of total funding from local sources. It was also discovered that social justice initiatives suffer the most when it comes to receiving local funding. Majority receive less than 1% of total donations.

Figure 2: Giving from Local Sources



3.4 Key Challenges Facing the NGO space in Ghana

The study identified the most important challenges faced by philanthropy actors as:

- i. Lack of Funds: NGOs express difficulty in finding sufficient, appropriate and continuous funding for their work. There is a high dependency on donors and a tendency to shift interventions to match donor priorities.
- ii. Poor Networking: Poor networking results in duplication of efforts, conflicting strategies at community level, a lack of learning from experience and reduced ability of NGOs to address local structural causes of poverty, deprivation and under-development.
- iii. Negative competition for resources: The study also noted that negative competition for resources leads to suspicion among NGOs, secrecy and lack of transparency. Many NGOs undertake projects at the community level without any community mapping and implement projects without due regard to ongoing community initiatives.
- iv. Poor Communications: Most NGOs have little or no access to reliable email, WhatsApp and internet connections, which makes it difficult to receive current information about the sector.
- v. Limited Capacity: Weak capacity was identified in fundraising, governance, leadership and management. Also, NGOs find it difficult to diversify funding sources.
- vi. There were reporting, quantifying and documenting results as well as accountability challenges among actors in the sector.





TAXATION AND PHILANTHROPY

4.1 Definition of Charitable Organization for Fiscal Purposes

1. A charitable organization for the purposes of the Charitable Purposes Act is an independent, non-profit making, non-political and charitable organisation, with the primary objective of enhancing the social, cultural and economic well-being of communities, and the operation of that organisation does not have a religious, political or ethnic bias.
2. This applies to foreign, national and international; developmental, humanitarian or relief organisations with capacity to undertake active development or humanitarian or relief work.

4.2 Tax Policy and the Philanthropy Space

Tax policy has a substantial impact on the philanthropy space in varied ways for example, from ensuring the availability of funds for important social programs to narrowing the gap between rich and poor.

4.3 Ghana's Tax Regime

As with the nature of taxes in all countries, Ghana's tax system plays the fundamental role of raising government's revenue, redistributing wealth and income, re-pricing goods and services, as well as affording citizens the power of representation through good governance and accountability.

Ghana's tax system is bedeviled with common challenges as faced by many tax jurisdictions especially in low income and in emerging economies. These include a large informal sector, relatively inefficient tax administration, inadequate data, lack of transparency and citizen participation in tax matters, tax avoidance and evasion schemes, transfer pricing and mispricing among others, which often lead to difficulty in raising the much needed revenue through the tax system among others.

Against the background of the recurrent discourse of factors militating against revenue maximization is also the perverse incentive in the context of tax expenditures and limited discussion among the different stakeholders, i.e. Government, Civil Society, the mass media and the General Public, over tax matters and their importance for poverty alleviation and sustainable development.





There are concerns on the misuse of tax revenues, bringing about mistrust of government and the unwillingness of citizens to honour their tax obligations as a civic duty.

In the context of Ghana's development discourse, NGOs and other charitable organizations are seen as partners in development. Provisions are therefore made in the tax laws to promote such gestures at the expense of direct tax revenue. The general government disposition towards philanthropic organizations (hereinafter referred to as NGOs, CSOs, FBOs, etc) has historically been and continues to be favourable.

The concern of this study is with taxation. The study seeks to find out the specific legal provisions and policies on taxation that the government has in place with regard to philanthropy and how these affect philanthropy. It then canvasses reforms to render them more facilitative for the growth of philanthropy.

4.4 Tax Treatment of NGOs

The Ghanaian tax system is generally consistent with features of an internationally accepted tax system. Broadly, it reflects the essential elements of a modern tax system and falls under either direct or indirect tax category. These include Value Added Tax (VAT) being consumption tax, a progressive personal income tax, a corporate income tax system with relatively low statutory rates, and few excise taxes with specific as well as low ad valorem rates. In addition, a tariff regime that harmonizes various tariff rates and aligns with the harmonized system of the common external tariff (CET) of Economic Community of West African States (ECOWAS) was adopted in 2015 to replace the harmonized system and Customs Commodity tariff schedules. The tax system also includes administrative, compliance and collection mechanisms such as withholding taxes to raise adequate revenue from each tax base and discourage avoidance schemes.

These main tax handles including the VAT, the Income Taxes and Import taxes among others affect NGOs and other faith based organizations in their operations. These taxes are captured in specific tax laws such as the Income Tax Act, 2015 (Act 896), the Customs Act, 2015 (Act 891) including the CET, and the VAT Act, 2013 (Act 870).

There are various incentive provisions in the above tax laws for purposes of promoting philanthropy and charity.



In recent times, there have been concerns raised by various stakeholders, regarding what is perceived as unclear laws regarding incentives for NGOs and other private sector players. The tax system has become difficult to manage due to a wide variety of special treatments and reliance on discretion in tax administration, rather than rules, partly in order to apply an increasingly complex and often conflicting set of tax provisions which sometimes affect NGOs and philanthropic organizations. As indicated, these incentives including special regimes, tax exemptions reduced tax rates, tax holidays, etc. generically referred to as “tax expenditures,” are seeing periodic reforms to make them more purpose- driven, productive and to avoid abuses.

The ensuing sections would discuss philanthropy within the context of the existing legislations namely;

- The Income Tax Act, 2015 (Act 896)
- The Value Added Tax Act, 2013 (Act 870)
- The Customs and Excise Act, 2015 (Act 891)

The administrative provisions in these Acts are detailed in the Revenue Administration Act, 2016 (817)

4.4.1 Income Tax Act 2015

The Income Tax Act 2015 (Act 896) is an ACT that provides for the imposition of income tax for related purposes. The Act was passed by Parliament and assented to by the President of the Republic in the 2015 fiscal year as part of the new tax laws.

The imposition of the tax is payable for each year of assessment by;

- (a) A person who has chargeable income for the year; and
- (b) A person who receives a final withholding payment during the year.

In the Act, Corporate entities who engage in non-commercial corporate social activities and philanthropic gestures such as scholarship schemes for the needy, donations to approved NGOs and other philanthropic gestures approved by the Commissioner-General as the head of the Revenue Authority, may claim deductions equal to the contribution or donation made by that person or entity during that year of assessment. Section 100 of the Act therefore confers benefits (100% deductible during year of assessment) to a person who makes such donations towards a worthwhile cause including charitable organizations. This is to encourage donations to NGOs and philanthropies. It should be noted that the rendition refers to a tax person who in this instance can be an individual or corporate entity.



For purposes of other tax incentives, NGOs are accorded benefits from income tax under an exemption provided for under Section 97. Specifically under Section 97 (4) of the Act, Income tax exemption provisions are made for income accruing to or derived by charitable organization such as NGOs. NGOs and other Non-Commercial organizations are therefore exempt from paying tax on their income related to charitable activities or income derived from non-commercial endeavours. It should be noted however that income derived from commercial business activities are taxable under the same Act.

Determinants of a Worthwhile Cause

The Act under section 100(2) provides a list of worthwhile causes approved by Government as: (i) a charitable organisation which meets the requirements of section 97 of the Act, (ii) a scheme of scholarship for an academic, technical, professional or other course of study, (iii) development of any rural area or urban area, (iv) sports development or sports promotion; and (v) any other worthwhile cause approved by the Commissioner-General.

Approval of a worthwhile cause

I. Charitable Organisation: The organisation must be in possession of an unexpired written approval issued by the Commissioner-General in accordance with section 97 of the Act.

II. A scheme or course of study: A scheme of scholarship for an academic, technical, professional or other course of study should be backed by a written attestation issued by the Minister for Education, confirming the scheme or course of study as a worthwhile cause for the purpose of section 100 of the Act.

III. Rural or Urban Development: An activity or event carried out for the purpose of the development of an urban or rural area should be backed by a written attestation issued by the Minister for Local Government, confirming the activity as a worthwhile cause for the purpose of section 100 of the Act.

IV. Sports development or promotion: An activity or event carried out for the purpose of sports development or promotion should be backed by a written attestation issued by the Minister for Youth and Sports, confirming the activity as a worthwhile cause for the purpose of section 100 of the Act.

V. Other worthwhile cause approved by Commissioner-General.

The Commissioner-General may make reference to the following issues in considering any other activity or event for approval as a worthwhile cause for the purpose of section 100 of the Act:



- a. The activity or event addresses clearly identifiable socio-economic needs at the national, regional, community or other local levels of the country;
- b. The need can be quantified in terms of cost;
- c. The benefits derived from the activity or event are nondiscriminatory in nature;
- d. The activity or event is not intended whether knowingly or consequentially to disrupt social life or cause environmental pollution or degradation.

Claim for Deduction

I. Application for Deduction for Contribution to a Worthwhile Cause: A taxpayer seeking to make a claim for a deduction in respect of a contribution or a donation to a worthwhile cause must complete a "Claim form for deduction for contribution/donation to a worthwhile cause" and submit the said form to the Commissioner-General through the applicant's Tax Office (Refer to Appendix 1).

II. Acknowledgement by Beneficiaries: An application for a deduction from income in respect of a contribution or donation to a worthwhile cause must be supported with a written acknowledgement from verifiable beneficiaries of the worthwhile cause. Such beneficiaries must have a valid Taxpayer Identification Number (TIN) issued under the Taxpayers Identification Numbering System Act 2002 (Act 632).

III. Approval of amount of deduction to be allowed: The Commissioner-General shall give consideration to Section 34 of the Act (General anti-avoidance rule) in approving an amount to be allowed as a deduction from income for contribution or donation to a worthwhile cause.

4.4.2 Value Added Tax Act 2013

The Value Added Tax Act, 2013 (Act, 870) revises and consolidates the law relating to the imposition of the value Added Tax and to provide for related matters. The Act was passed by Parliament and assented to by the President of the Republic of Ghana on 30th December, 2013. The Act is a consumption tax which is imposed on

- a) Supply of goods and services made in the country other than exempt goods or services,
- b) Import of goods or import of services other than exempt imports.

The VAT Act has various exempt supplies and relief items which may positively affect the operations of NGOs. Exemptions provisions in the law which are relevant to NGOs are captured under the first Schedule of Exempt Supplies to the Act and the Third Schedule under the Customs harmonized System Code of the CET specifically under Tariff 3BF62. For purpose of importation items under the VAT Act, Section 37 of the Act is also relevant. The section links the exemptions provisions in the Third Schedule of the CET to the VAT Act.



The VAT system offers a number of non-standard exemptions for domestic and imported supplies of which NGOs can avail themselves. Import VAT exemptions are also provided for certain raw materials (and machinery and equipment) and other items, for select manufacturers.

In addition to indirect tax relief provided under the VAT Act 870 and the Customs Act 891, other legislation provides VAT and customs duty exemptions for certain goods and certain taxpayers (e.g., goods imported from Economic Community of West African States (ECOWAS) countries, companies licensed under the GIPC, Free Zone companies and developers, and Exemptions by a Resolution of Parliament.

4.4.3 Customs and Excise Act

The laws under the current revenue reforms separate excise taxes from customs import taxes and are captured in respective laws. The Customs Act, 2015 (Act 891) is to provide for imposition, collection and accounting of customs duty, tax and for related matters. The Act was passed by Parliament and assented to in May, 2015. The Act imposes duty and rate on prescribed goods imported into the country or exported out of the country at a rate of duty and tax specified in the Harmonized commodity description and coding system (harmonized System) now the CET. The Act provides exemptions on certain prescribed goods such as those for education and health. It also provides import tax exemptions for Government, privileged persons and Institutions such as NGOs in the Third Schedule of the Harmonized System of the CET.

Certain customs duty exemptions are provided as part of agreements with countries of the ECOWAS community. Customs duty exemptions are also provided to firms registered under the Free Zone regime, firms with GIPC licenses, as well as businesses or entities that have been granted exemptions by Parliament.

A person with disability may import a vehicle adapted or modified for use by persons with disability. The vehicle imported shall upon the recommendations of the Minister and with approval of the Minister for Finance be exempt from the payment of import duty and any other tax relating to the importation.

a) The Import Duty Waiver Process

Article 174 (2) of the 1992 Constitution of Ghana, grants powers to the Hon. Minister of Finance or authorized body to exempt or vary taxes imposed by Parliament through a Resolution of Parliament. Article 174 further indicates that such exercise of powers of waiver can be delegated to a body or authority to undertake that function usually done through an Act of Parliament. It is therefore safe to indicate that exemptions are given by Parliament and therefore the fiscal authority, the Ministry of Finance, derives its power from the provision of the Act.

In the case of the NGO exemptions and specifically for import taxes, the law provides that such exemptions shall be given only for educational and medical purposes. All other items shall be with the prior approval of Parliament. The law provides that the exemptions may be granted where the applicant or NGO is recommended by approved sector Ministry in charge of NGOs or Health and Education to the Minister for Finance.

For NGOs with their current supervisory Ministry being the Ministry of Gender, Children and Social Protection, a representation has to be made on their behalf to the Ministry of Finance for approval. The recommendation may be backed with further supporting documents from other sector agencies such as the Ministries of education and health who may also be a recommending Ministry for purpose of the exemptions provisions.

All sector Ministries have specific provisions which must be met. It should be noted that the facilitation of duty waiver is available to organisations which are properly registered and which have submitted registered programmes of activity with the sector Ministry.

Generally, before recommending a request for waiver to the Ministry of Finance, the sector Ministry would have satisfied itself that the NGO has a credible track record and meets basic requirements such as registration and reporting requirements. The required supporting documents for exemptions shall include but not be limited to the bill of lading or waybill, the certificate of donation, list of beneficiaries, invoices and packing list of the donated goods, which shall satisfy items for medical and educational endeavours. Such items exclude vehicles, especially passenger and estate vehicles.

Once an NGO has been approved for waiver, all supporting documentation shall be uploaded to an online platform for validation and further action on the customs management system as part of the electronic application process. The final output from the system is used by the clearing agent for the actual customs works to have the goods finally cleared from the Port under exemptions.



b. Conditions or Considerations of Waiver

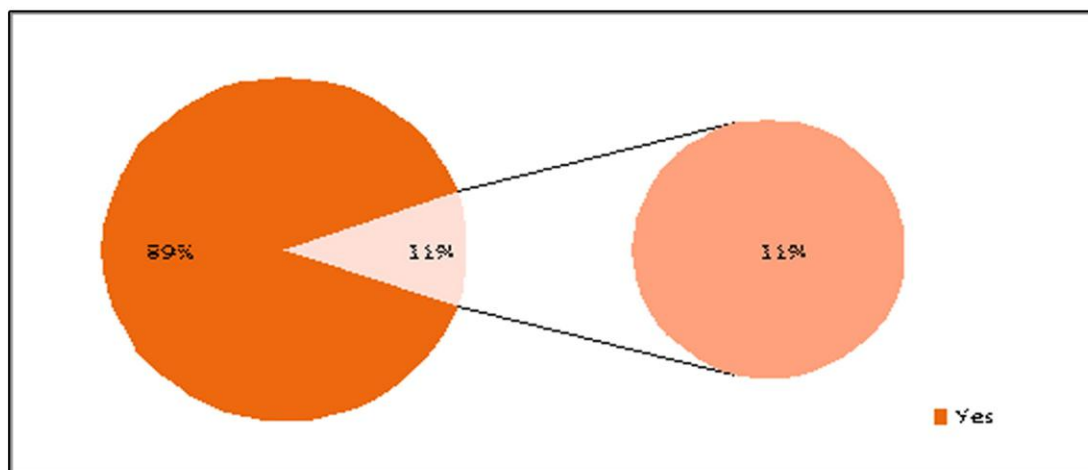
For any tax exemptions applications by NGOs, the following requirements must be met;

- (1) Goods imported for monetisation according to donor instructions so that the proceeds should be utilised for programme implementation will not enjoy duty waiver.
- (2) Imported items which are locally produced and are of comparable quality and cost shall not be granted duty waiver except when approved by the relevant Ministry, or required by the donor under emergency relief assistance.
- (3) The personal effects of the personnel of an organisation will be granted duty waiver only under the normal customs rules pertaining to first time entrants, which rules shall apply for an initial period of six months only and the customs requirement would have been met.
- (4) Luxury items and commercial quantities of non-luxury items as determined by the Minister shall not be exempt from duty.
- (5) Goods donated for humanitarian relief activities that the sector Minister and the organisation agree to monetise for any reason, shall not enjoy duty exemption, and when monetised, the proceeds must be used for programme implementation.
- (6) In the case of vehicles, there shall not be any exemptions except in exceptional cases and for import duty only where the vehicle is a bus consigned to a school.
- (7) Fuel purchase by an organisation will not enjoy duty free facility under any circumstances.
- (8) The Sector Ministry, the Ministry responsible for Social Development will develop a mechanism to authenticate beneficiaries for duty-free concession.
- (9) The disposal of items that originally enjoyed duty waiver facility should be communicated to the GRA under the normal guidelines approved by the supervisory Ministry before any sale to a third party or transfer is effected.
- (10) The Commissioner-General shall cancel the waiver facility already approved where an organization misinforms the Government on imports or for use of goods contrary to approved purpose.

4.4.4 Accessing Tax Incentives

Regarding the importance of Tax incentives, 89% of the populations interviewed were of the view that tax incentives will encourage Ghanaians to give while 11% thought otherwise. This indicates that an introduction of more tax incentives as well as educating the public on the existing tax incentives has high prospects of positively influencing charitable giving in Ghana.

Figure 3: Tax Incentives will encourage Ghanaians to give



In general, most people do not assess tax incentives. From the study only 7% of respondents assessed tax provisions in the past two years, while 93% did not.

Figure 4: Assessment of Tax Incentive

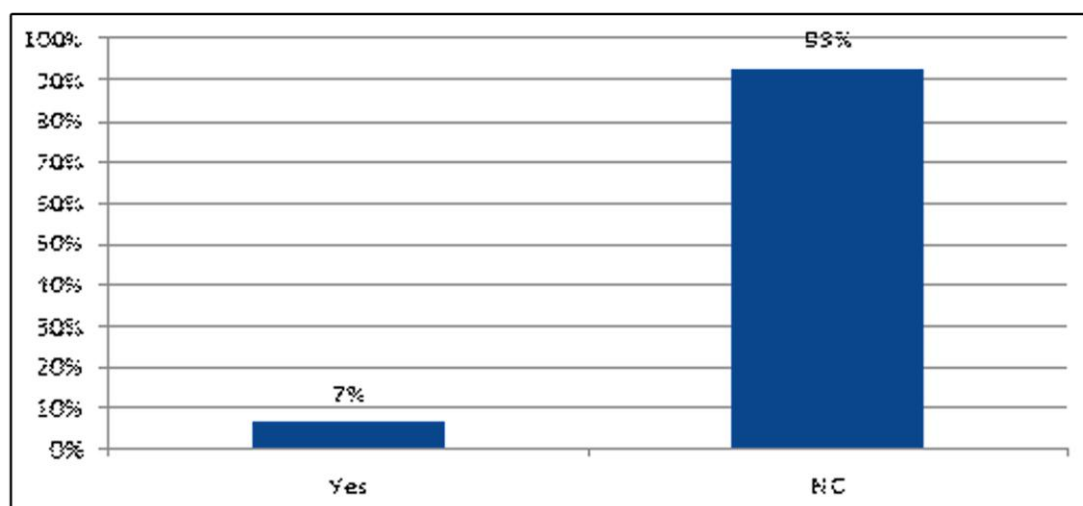
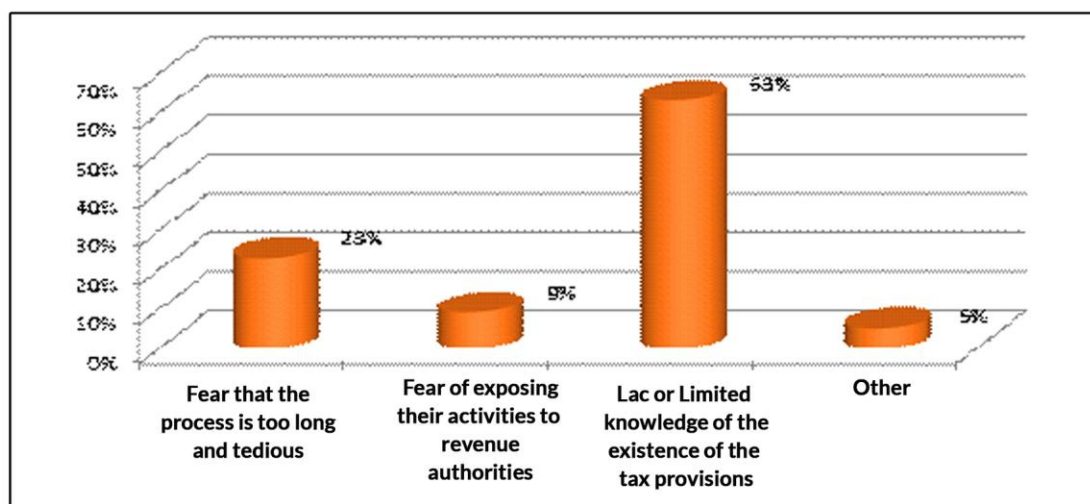


Figure 5: Factors that bar NGOs from applying for Tax benefits?



Respondents expressed lack of awareness about tax incentives for NGOs and bottlenecks – some of which they perceive to be deliberate. When respondents were asked about what prevents them from accessing tax benefits, 63% of respondents said they did not know about the existence of the provisions, 23% said they anticipate difficulty in the process whilst 9% fear that it could lead to exposing their activities to revenue authorities.

4.5 Conclusion

The major issues with the current exemption laws pertaining to philanthropy is mainly the lack of clear regulations. The country does not have a clear exemptions guidelines and database systems to administer the exemptions processes. There is a need for clear guidelines and rule based systems to administer all aspects of exemptions. There should be clear enforcement and monitoring mechanisms to ensure that goods are used for approved purpose. In the absence of regulations prescribing the approval process and clear guidelines, NGOs have suffered losses including huge demurrage and rent charges at the Port. The law does not prescribe remedies for such losses which are often costly to the NGOs.

Lack of periodic stakeholder engagements on the sensitization of our tax laws have also resulted in situations where the authorities and the tax payers including NGOs are poorly informed on relevant tax provisions in our laws and their applications including filing requirement and reporting. The absence of practice notes in some arenas of exemptions administration has also sometimes resulted in ad hoc process which takes time to streamline and is often complicated. Presently, many NGOs are on the verge of getting extinct as a result of difficulty in finding sufficient, appropriate and continuous funding for their work. They find accessing donors as challenging as dealing with their funding conditions.





4.6 Recommendation

This report argues that systematic giving in Ghana can be made more effective if government explores options for reforming the NGO Tax Incentive Systems.

The Ghanaian populace and the NGO sector are grossly unaware of tax provisions or exemptions that benefit them. This lack of awareness of giving incentives, appear to have precluded the existence of a synchronized national giving. The processes involved in accessing these tax provisions need to be reformed to make them more accessible.

The following practical interventions are recommended toward creating a vibrant philanthropy sector in Ghana.

1. The need for government to clearly define the conceptual terms of Charity, Philanthropy and Social Enterprise and properly categorise NGOs in the sector.
2. The need for clear guidelines and rule-based systems to administer all aspects of exemptions and database systems for exemptions processes.
3. The need for clear enforcement and monitoring mechanisms to ensure that goods are used for approved purposes. In the absence of regulations prescribing the approval process, NGOs/CSOs have suffered losses including huge demurrage and rent charges at the Port. The law however does not prescribe remedies for such losses, which are often costly to the NGOs.
4. There is need for periodic engagements to sensitize stakeholders on tax laws and its application, to avoid situations where the authorities and the tax payers (including NGOs) are poorly informed and fail to properly satisfy filing requirements and reporting.
5. There is need for Government to consider providing financial support to NGOs/CSOs to ease the financial burden on them.
6. Establish tax exemption identification numbers for NGOs and a scheme for assigning tax exemption status for qualified NGOs.
7. Expand list of exempt purposes beyond Education and Health activities.
8. An NGO Policy should create a conducive framework for NGO operations, introduce tax incentives and promote general understanding and recognition of NGO work. It should provide pathways to address NGO transparency and accountability, legal and regulatory issues in accordance with international laws, norms and best practices.

Appendix 1: List of Key Informants

| | NAME | ORGANIZATION | POSITION | SEX | SECTOR |
|----|----------------------------|--|---------------------------------|--------|-----------|
| 1 | Dr. Akosua Agyemang | Centre for Ageing Studies/Department of Social Work - UG | Lecturer | Female | Education |
| 2 | Mrs. Pat Gyebi | Old Tafo M/A J.H.S. | Head Teacher | Female | Education |
| 3 | Mrs. Stella Owusu Aduomi | Asokore Mampong Municipal | Municipal Coordinating Director | Female | Gov. |
| 4 | Mrs Awo Otchere | Amazing Grace Children's Foundation | Board Member | Female | NGO |
| 5 | Dorinda Bosu | Apex Community Aid | Executive Director | Female | NGO |
| 6 | Shobhita Soor | Aspire Food Group Ghana | Director | Female | NGO |
| 7 | Mona Darko | Associates For Change | Programmes Administrator | Female | NGO |
| 8 | Florence Agyemang | CAFAF | Chief Operating Officer | Female | NGO |
| 9 | Eunice O. Lamptey | Community Life Support Foundation | CEO | Female | NGO |
| 10 | Abena Odum Okra | Eve's Foundation | Eve's Foundation | Female | NGO |
| 11 | Adeline Mensah | FSDA - Ghana | Director of finance and admin | Female | NGO |
| 12 | Mrs. Victoria Norgbey | GLOBAL WOMEN DEVELOPMENT PROMOTERS | Executive Director | Female | NGO |
| 13 | Millicent Ellen Tawiah | HOPE FOR FUTURE GENERATION | Administrative Secretary | Female | NGO |
| 14 | Cecilia Senoo | HOPE FOR FUTURE GENERATION | Executive Director | Female | NGO |
| 15 | Naa Obeye Ammah | KALI ETCH FOUNDATION | Executive Director | Female | NGO |
| 16 | Ellen Adu-Twumwaah Semanyo | Mama Ellen Foundation | CEO | Female | NGO |

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|----|-----------------------------|---|--------------------------|--------|---------|
| 17 | Hon. Rahinatu Yakubu | NNCF | Communications Director | Female | NGO |
| 18 | Rose Beyuo Siilo | Plan International Ghana | Program Unit Manager | Female | NGO |
| 19 | Grace A. Bown | PTSIF | Director of Programmes | Female | NGO |
| 20 | Opoku Debrah Abigail | Pure Passion Foundation | Secretary | Female | NGO |
| 21 | Safiatsu Issaku | Regentropfen Education Foundation | Northern Zonal Officer | Female | NGO |
| 22 | Alima Sagit | SIRDA | Executive Director | Female | NGO |
| 23 | Patricia Ayichru | Widows and Orphans Movement | Project Officer | Female | NGO |
| 24 | Savana Afriyie | Young People We Care | Administrative Assistant | Female | NGO |
| 25 | Mary Anorff | Youthlife Africa | Executive Director | Female | NGO |
| 26 | Maureen Odoi | AABN | Executive Director | Female | Private |
| 27 | Linda Buame | Think Data Services | Data Impact Coordinator | Female | Private |
| 28 | Mrs. Nana Asantewa Afadzinu | WACSI | Executive Director | Female | Private |
| 29 | Dorcas Lomotey | Central Region Development Commission | Senior Project Officer | Female | Public |
| 30 | Awudu Aminatu | Youth Employment Agency, Asante Akim Central District | Director | Female | Public |
| 31 | Awudu Aminatu | Youth Employment Agency, Asante Akim Central District | Director | Female | Public |
| 32 | Fulgence Niyonkuru | African Youth Employment Initiative | CEO | Male | NGO |
| 33 | Jude Yaw Asiedu | Afrihope Missions | Executive Secretary | Male | NGO |
| 34 | Yaw Assibey | School Child Aid | Organizer | Male | NGO |

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|----|-------------------------------|--------------------------------------|---|------|-----------|
| 35 | Isaac Ofosu Debrah | SDG Philanthropy Platform UNDP | Coordinator | Male | |
| 36 | George Ayik | Bagabaga College of Education | Principal Supply Officer | Male | Education |
| 37 | Mr. Daniel | Bolgatanga Polytechnic | Dean - School of Applied Science & Arts | Male | Education |
| 38 | Samuel Apuri | Bolgatanga Polytechnic | Lecturer | Male | Education |
| 39 | Dr. Hillar Addo | Lucas University College | Vice President, Academics | Male | Education |
| 40 | Dr. David Garr | Prebyterian Univeristy College | Lecturer | Male | Education |
| 41 | Kubuga Kennedy | Tamale Technical University | Head of Department | Male | Education |
| 42 | Yakubu Abdul- Wahab Nasawu | Tamale Technical University | Lecturer | Male | Education |
| 43 | Samson Abagale | University of Development Studies | Lecturer | Male | Education |
| 44 | Mark Aryeetey | UPSA | Administrator | Male | Education |
| 45 | Emmanuel Amankwah | Wa Polytechnic | Head of Department - Agric Engineering | Male | Education |
| 46 | Emmanuel Amankwah | Wa Polytechnic | Head of Department - Agric Engineering | Male | Education |
| 47 | Hon. Alidu Seidu | Asokore Mampong Municipal | Municipal Chief Executive | Male | Gov. |
| 48 | Roland Ataah | Department of Agriculture | Agric- Extension officer | Male | Gov. |
| 49 | Prosper Bayuo | Department of Social Welfare | Programmes Head | Male | Gov. |
| 50 | Dela Ashiabor | Department of Social Welfare | Deputy Director | Male | Gov. |

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|----|---------------------------|---|---|------|---------------|
| 51 | Mr. Joe Gyekye | G.E.S. Asante Akim Central District | Guidance and Counselling Coordinator | Male | Gov. |
| 52 | Frank Asare Addo | G.E.S. Asante Akim Central District - Konongo | Head of Finance and Administration | Male | Public Sector |
| 53 | Suleman Abdulla | G.E.S. Asante Akim Central District - Konongo | Purchase and Supply Officer | Male | Public Sector |
| 54 | Yussif Lamusah Amadu | GES | Officer | Male | Public Sector |
| 55 | PHILIP BANAHEHE | MINISTRY OF FINANCE | Principal Economic Officer | Male | Public Sector |
| 56 | Angnenabaala John | Zawura District Hospital | Accounts Officer | Male | Health |
| 57 | Osei Tutu Prince | Agyenkwa Fm | Journalist | Male | Media |
| 58 | Mohammed A. Banque | Aid Afrique Edu | Director | Male | NGO |
| 59 | Abdul-Lateef Yakubu | AVRDC Vegetable Center | | Male | NGO |
| 60 | Solomon Owusu-Amankwaah | Bright Generation Community Foundation | Development Manager | Male | NGO |
| 61 | Kwaku Asante | Bureau of Sustainable Integrated Development | Director | Male | NGO |
| 62 | Mohammed Awal Sumani Baro | CALID | Executive Director | Male | NGO |
| 63 | Kasavubu Mordzi | CARD | Executive Director | Male | NGO |
| 64 | Towah John Kanyiti | CDC | Executive Director | Male | NGO |
| 65 | Dr. Franklin Oduro | CDD - GHANA | Deputy Director and Head of Research and Programs | Male | NGO |
| 66 | Atta Kofi Boateng Piano | Cherubs Childrens Home | Board Member | Male | NGO |

| | | | | | |
|----|------------------------|--|--|------|-----|
| 67 | Dominic Sarpong | Davudy Foundation | Assistant Director | Male | NGO |
| 68 | Albert Nyaaba Akoubila | Discovery Learning Alliance - Ghana | Training and development coordinator | Male | NGO |
| 69 | Elisha Zekrumah | Drive for Health | Administrator | Male | NGO |
| 70 | Seidu Musah Akugri | Formerly, CODAC | Executive Director | Male | NGO |
| 71 | Julius Kwadzo Ameku | FYSSO GHANA | Executive Director | Male | NGO |
| 72 | Gmabi A. Philip | GDCA | Technical Advisor, Policy and Governance | Male | NGO |
| 73 | Mugmin Mussah | Grameen Ghana | Head of Programmes | Male | NGO |
| 74 | Prosper Burnson | GREEN DEVELOPMENT CONSULT | Director | Male | NGO |
| 75 | Kombat Isaac N | Hope In Ghana | Executive Director | Male | NGO |
| 76 | Albert Berdjour | IITA | Research Technician | Male | NGO |
| 77 | Jamal Gariba | Lean on Me Foundation | Co-ordinator | Male | NGO |
| 78 | Peter Afolabi | M. J. Mission | Executive Director | Male | NGO |
| 79 | Daniel Bediako | Mama Ellen Foundation | Outreach Organizer | Male | NGO |
| 80 | Baddoo S. Martey | MIND DEVELOPMENT FOUNDATION | Executive Director | Male | NGO |
| 81 | Abdul-Wahab Abass | Neisim Sopala Foundation | Program Director | Male | NGO |
| 82 | Samuel Oracca Tetteh | Network For Health & Relief Foundation | Executive Director | Male | NGO |
| 83 | Issah Aminu Danaa | NORSAAC | M&E Manager | Male | NGO |
| 84 | Cletus Zume | NORTHCODE-GH | Coordinator | Male | NGO |
| 85 | Mustapha Salisu | NOYED-GH | Project Officer | Male | NGO |

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|-----|-----------------------------|-------------------------------------|---------------------------|------|-----|
| 86 | Annor Douglas | PARTNERS IN SUSTAINABLE DEVELOPMENT | Executive Director | Male | NGO |
| 87 | Mutawakilu Alhassan | Peace for Life Gh | Director | Male | NGO |
| 88 | Robert Donkor | Pioneer Foundation | Director | Male | NGO |
| 89 | Romeo Gloverberg | ProLink | Assistant Project Manager | Male | NGO |
| 90 | Habib Haruna | PTSIF | CEO | Male | NGO |
| 91 | Andrews Sarfo | Pure Passion Foundation | Director | Male | NGO |
| 92 | Richmond Tetteh Agamloh Jnr | Rays of Hope Centre | Administrator | Male | NGO |
| 93 | James | Rural Education and Development | Executive Director | Male | NGO |
| 94 | Masud Aziz Rauf | RUWA | Executive Director | Male | NGO |
| 95 | Mr. Jon Beaulieu | Sabre Ghana | Chief Operating Officer | Male | NGO |
| 96 | Prince O. Ankrah | SANKOFA CARE INITIATIVE | Founder/C.E. O. | Male | NGO |
| 97 | Agyapah Buah | SCMPP | Team leader | Male | NGO |
| 98 | Commend Enyam Akpleoo | SEEK TO SAVE FOUNDATION | Executive Director | Male | NGO |
| 99 | George Osei-Bimpeh | SEND GHANA | Country director | Male | NGO |
| 100 | Shani Abdul Kasiru | Songtaba | Head of Programmes | Male | NGO |
| 101 | Richard Opoku | Special Attention Project | Programmes Manager | Male | NGO |
| 102 | Edwin Quarcoo | Start From Ghana | CEO | Male | NGO |
| 103 | Dr. Andrews Ayim | Syband Association | Director | Male | NGO |
| 104 | Fosu Isaac | The Orphan Talent Foundation | CEO | Male | NGO |
| 105 | Isaac Kwabena Kakpeibe | Tim Africa Aid Ghana | Executive Director | Male | NGO |



| | | | | | |
|-----|--------------------------------|---|--|------|-------------------|
| 106 | Chief A.A. Razak Ewuntomah | TUDEC | Deputy Executive Director | Male | NGO |
| 107 | James Sanefu | Tuma Kavi | Program Officer | Male | NGO |
| 108 | Audland Kwasi Dapaah | White Angle Foundation | Director | Male | NGO |
| 109 | Bonaventure Folitse | Wishes Alliance Organization | Projects and Administrative Coordinator | Male | NGO |
| 110 | Fletcher Nyarko Lawrence | Won Nyeya Company Limited | | Male | NGO |
| 111 | Francis Sarkodie | Center for Integrated Rural and Child Development (CIRCDev) | Executive Director | Male | NGO |
| 112 | Mohammed Rashidatu | Saguarigu Municipal Assembly | Head of Social Welfare and Community Development | Male | Public Sector |
| 113 | Nana Antwi Boasiako Patrick | Youth Employment Agency, Atwima Kwanwoma District | Director | Male | Public Sector |
| 114 | Mubuik Ibrahim | Ghana Standards Authority | Senior Administrator | Male | Public Sector |
| 115 | Ibrahim Alhassan Jihad | National Sports Authority | Senior Sports Development Officer | Male | Public Sector |
| 116 | Chief Edmond Bawa Akpam Abugri | Gogo Traditional Area | Sub Divisional Chief | Male | Traditional Ruler |
| 117 | Chief David Kansuk | Nakpanduri Traditional Area | Paramount Chief | Male | Traditional Ruler |



The Ghana Philanthropy Forum, is a not for profit organization in Ghana. We work to strengthen the capacities of not for profit organizations and other third sector networks; developing knowledge products through cutting edge research and building social action partnerships with public and private sector in aid of increasing the visibility and ability of third sector organizations to leverage resources to support their activities. Through research, we scale up approaches that work, disseminate learning and best practices, and convening stakeholders to promote broader collaboration and impact.

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