



# The importance of registering as a charity

Rotary District Conference

15 April 2011

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# What is a charity?

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Any institution, corporate or not, which is established for *charitable objects or purposes*, is intended to and does operate for the *public benefit*, and is subject to the control of the court in the exercise of its jurisdiction with respect to charities ( Barbados Charities Act).

Corporation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, *no part of the net income of which is for the benefit of any private stockholder or individual*. (Jamaica ITA).

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# Definitions

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- ▶ Organization set up to help those in need or for the common good (Oxford Dictionary).
- ▶ Charities/Charitable organization/Not-for-profit organizations/Benevolent organizations/Foundations.
- ▶ Barbados Income Tax Act amended to replace “benevolent organizations” with “charities”.
- ▶ Public benefit covers either the public at large or a section to be ascertained by reference to some geographical area.

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# Examples of charitable purposes (Barbados Act)

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- ▶ Relief and prevention of poverty/sickness/disability.
- ▶ Advancement of education/religion.
- ▶ Provision of museums and art galleries.
- ▶ Promotion/improvement of national heritage.
- ▶ Provision of housing/social welfare services.
- ▶ Promotion of sport/recreation.
- ▶ Establishment of organizations to assist members of the community with special needs.
- ▶ Provision of public work for the benefit of the community.

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# Legislation

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- ▶ Charities Act – Barbados.
- ▶ No specific legislation in Trinidad and Jamaica.
- ▶ Trinidad and Jamaica refer to Not-For-Profit Organizations in Companies Acts and, in Trinidad, a charity would generally have to fall into either/or *(1) relief of poverty (2) advancement of education/religion (3) other purposes beneficial to the community.*
- ▶ Jamaica – After registration an organization can apply for approved charitable status under ITA.
- ▶ Income Tax Acts/Customs Acts.
- ▶ Value Added Tax/General Consumption Tax (GCT) Acts.

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# Exempt charities

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- ▶ Under Barbados Charities Act these are specifically listed and are not required to be registered under the Act.
- ▶ Include Queen Elizabeth Hospital, Barbados Community College, schools administered under Education Act,
- ▶ Churches (under the Anglican Church Act and some others).
- ▶ Aids Foundation, Barbados National Trust, Small Business Association, Sanitation Service Authority.
- ▶ Barbados Cancer Society/Cancer Support Services.
- ▶ Kiwanis and Lions Clubs.
- ▶ Any facility for treatment of substance abuse.

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# Benefits of charities

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- ▶ Income tax exemptions (both for charitable organizations and donors).
- ▶ VAT/GCT exemptions.
- ▶ Exemptions from payment of customs duties.
- ▶ Exemption from transfer taxes.

Registration under the Act establishing the charity is not always enough, there is a requirement to generally apply to Ministry of Finance or Revenue Departments to get these exemptions and this is sometimes a rigorous process.

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# Income tax benefits

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- ▶ **Barbados** – No tax is payable by a person in respect of a period when that person was a charity.
- ▶ Charity must however be an exempt charity or a registered charity under the Charities Act but separate application must be made to Revenue for tax benefits.
- ▶ Donations to a registered or exempt charity are allowed as deductions against assessable income.
- ▶ **Trinidad** – deductions allowed for covenanted donations to charities. These include payments made in favour of a sporting body or persons or an ecclesiastical, charitable or educational institution of public character, *approved by the President in writing.*



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## Income tax benefits (continued)

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- ▶ Deed of covenant must be stamped in accordance with Stamp Duty Act.
- ▶ Approved Charitable Foundation – the profits of any ecclesiastical, charitable or educational institution of public character (approved by the President) are exempt from corporation tax (as long as such profits are not derived from a trade or business).
- ▶ **Jamaica** – Registered charitable organizations can have their income exempted from income tax. A list (approved by Minister of Finance) is maintained of institutions that have approved charitable status and donors receive tax deductions.

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# Other benefits

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- ▶ **Barbados** - transfer of property by a charity is exempt from property transfer tax. No exemption from Stamp Duty.
- ▶ Supply of goods and services by a charity (where the goods are not supplied in the course of business) are exempt from VAT. Also goods imported to be used exclusively for the purposes of the charity and not for sale, are zero rated.
- ▶ Customs Act provides a list of registered charities that are entitled to exemption from customs duty on importation of goods. Application must be submitted to Ministry of Finance.

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## Other benefits (continued)

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- ▶ **Jamaica** - Can apply to the Revenue within 2 years for refund of any GCT paid. Treated as input tax credit.
- ▶ Need to apply for customs duty waivers.
- ▶ Under the Transfer Tax Act exemptions also apply.
- ▶ **Trinidad** - Generally no duty or VAT exemption.

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# Other considerations

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- ▶ Annual accounts to be submitted annually to Registrar or Ministry of Finance as applicable (within 1 month of year end for Barbados).
- ▶ Registration of charities under the Barbados ITA is much more rigorous than under Charities Act. Revenue can ask for much more detail. e.g. by-laws should be extremely specific in the provision for scope and purpose of the charity. Revenue wishes to clearly identify a distinguishable group of persons that will benefit.
- ▶ 2 weeks for registration with Registrar and 2-4 weeks for Inland Revenue registration.
- ▶ Charitable purposes must be maintained.

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## Other considerations (continued)

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- ▶ In Trinidad, approval by the President entails an application to the Revenue with articles or trust deed setting out objects as well as financial statements covering the last 3 years.

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# Why it is important to have an annual audit

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- ▶ **Barbados** – The Registrar *may* require “..the condition and accounts of a charity for such period as he thinks fit be investigated and audited by an auditor appointed by him...”
- ▶ **Jamaica** – If charity is a corporation that meets a size test then an audit is required.

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# Why it is important to have an annual audit (continued)

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- ▶ Where charities are part of international bodies and funding obtained, an audit may be required.
- ▶ Good governance given nature of charities to show that donations received are used in furtherance of charity's stated objectives. May give donors comfort.
- ▶ Many international charitable organizations have audits.
- ▶ UK charities over a size threshold require audits.

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# Limitation

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The foregoing information represents summarized high level comments and should not be relied upon for tax or other professional advice.

Comprehensive professional advice should be sought prior to any application.



# Thank you!

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