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Wholly & Exclusive

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Entities may face a challenge to demonstrate that their expenses incurred meet the qualifying test of wholly and exclusive principle as provided under the Tanzanian tax laws. Failure to meet the test results into disqualification of expenses from corporate tax perspective resulting to un-anticipated cash out flow due to increase in corporate tax bill.

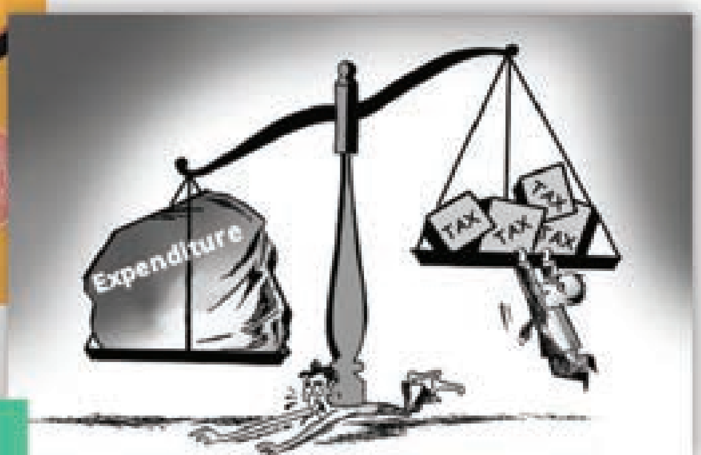
Therefore, we find that it is important for us to share some key areas that you can be vigilant in order to ensure that expenses incurred meets the principle test to qualify as a tax deduction.

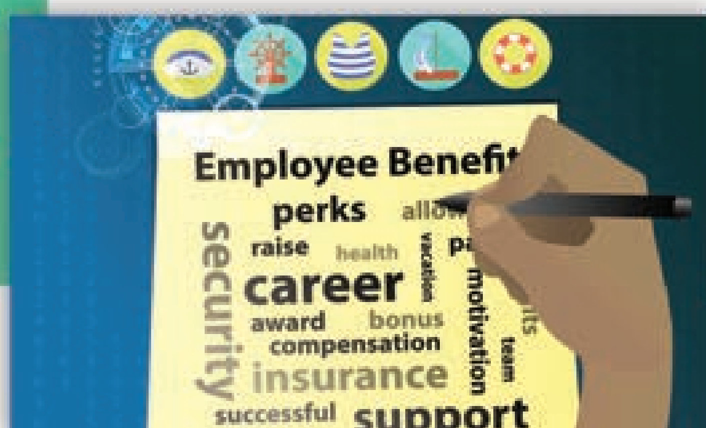
Broad view about qualification for tax deduction

Section 11(2) of the Income Tax Act, 2004 carries a broad and non-restrictive language that there shall be deducted all expenditure incurred during the year of income by the person wholly and exclusively in the production of income from the business or investment. Although there is no definition provided under the law, over the years tax practices and cases have been able to establish key tests to frame this principle.

The results are that the term **"wholly"** refers to quantum of money and **"exclusively"** refers to the purpose.

Seven key principles that are commonly used in determining whether an expenditure meets the test was referred in one of the Court of Appeal Tax Case no. 89 and 90 of 2015 between Bulhanyulu Gold Mine Limited vs Commissioner General, TRA.





Test for tax deductible expenditure

1. Assessee's capacity
The expenditure should be incurred by the person in her capacity as a trader or in some other capacity.

2.Commercial expenditure
The expenditure is voluntarily incurred on grounds of commercial expediency, in order to facilitate the carrying on of the business.

3.Reasonableness
Allowable expenses are not subject to the subjective test of reasonableness, but to be determined objectively from factual circumstances of the expenditure and common business practice.

For instance, you do not expect a fuel station to have a significant gardening cost which is not a common business practice and hence this cost may be contested.

4. Business purpose
The direct purpose of the expenditure is to facilitate trade, meaning that the expense is in relation to the production of income with the direct purpose of producing profits.

For instance, legal cost incurred to protect company's patent is an allowable expense as it protects the company's assets. However, legal cost to protect owners own house is not an allowable expense

5. Incidental benefit to a third party
Expenditure should not be disallowed because a third party obtains an advantage from the expenditure.

For instance, bore well expenses incurred by a farmer in order to irrigate the farm cannot be disallowed if the same bore well is used to supply water to a nearby villagers during the dry season.

6. Production of taxpayer's own income
Deductions are only allowed for expenditure on the production of the company's own income. In some instances, you may incur expenses which are of dual in nature, part of which may be regarded as deductible. It is a common approach to apportion and only claim the expense that ontributes to production of business income.

Common example is running costs of a car used partly for business and partly for private purposes or light and heat of premises used partly as business an partly as accommodation should be apportioned.

7.Expenditure for future income
It is not necessary that the expenditure in a particular year should result in profits within the same year.

Apart from the wholly and exclusive principle, there are several other factors to consider to test whether an expense is tax deductible. Some other expenses which are not tax deductible are:

- Tax payable under the Income Tax Act. A common example is PAYE and Withholding tax;
- Bribes, fines, interest and similar penalties payable to any Government or political sub division of a government of any country;
- Expenditure to the extent to which incurred by a person in deriving exempt amounts or final withholding payments;
- Distributions by an entity (e.g. dividends); or
- Withholding tax paid by withholder

Kindly note the above list is not exhaustive of all the tests.

Furthermore, one should be having a fiscalized tax invoice/ receipt whose characteristics are mentioned below:

- Date of Issuance;
- Description, quantity and other relevant specification of the things supplied;
- total consideration payable for the supply and the amount of VAT included in that consideration
- Name, TIN, VRN of supplier;
- If the value of supply exceeds Tzs 100,000; the name, address, TIN and VRN of the customer to be able to claim input VAT;
- QR Code

If you have any questions or require advise, do not hesitate to get in touch.

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