



Update on the Regulatory Treatment of NGO Economic Activities

| CZECH REPUBLIC | SLOVAKIA | ROMANIA | HUNGARY |
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| Allow some type of NGO economic activities? (which is the most favorable organization type) | | | |
| <p>YES Generally permitted for all NGOs except foundations and funds, which are prohibited from engaging in economic activities, except receiving income for rent of property, cultural, social, sporting and educational events, as well as lotteries and public collections to raise funds. Public benefit corporations may engage in only those economic activities that serve to render use of property and resources more efficient. None of the above NGOs may be established to pursue economic activities and these may not be its prevailing activities.</p> | <p>YES Except for foundations and non-investment funds, which are prohibited from engaging in economic activities. These may, however, operate lotteries or organize cultural, educational, social, or sports events where such activities allow their assets to be used in a more effective manner. Nonprofit organizations providing publicly beneficial services may be engaged in entrepreneurial activities as defined by special laws and under the conditions that such activity will enable better utilization of their property and that the quality, scope and accessibility of their statutory public benefit services will not be adversely affected. Generally, NGOs may not be established with the aim to pursue economic activities.</p> | <p>YES Generally permitted for all NGO's. NGO's can be directly or indirectly involved in economic act. (indirect activities are those that are performed through private companies founded by associations and foundations provided that all revenues have to be used for fulfilling the purpose of the association or foundation that set it up or to reinvest them in company).</p> | <p>YES Foundations and associations are permitted to engage in economic activities. While these forms may not be established primarily to pursue economic activities, a public benefit company may conduct economic activities as its main activity. Therefore, a public benefit company form is most favorable for NGOs regularly engaged in entrepreneurial activities.</p> |
| Policy Approach | | | |
| Closest to policy approach 2: Destination of Income Rule, combined with threshold of exempt income. | Closest to policy approach 2: Destination of Income Rule, combined with relatedness test and threshold income level. | Closest to policy approach 2: Destination of Income Rule combined with a threshold of total income and entrepreneurial income. | Closest to policy approach 2: Destination of Income Rule, combined with relatedness test and threshold income level. |
| Non-distribution constraint | | | |
| yes | yes | yes | yes |
| Income tax rate | | | |
| tax rate is 31% | tax rate is 19% | it's called tax on profit and the rate is 25%. The standard rate of corporate income tax may be reduced from 25% to 19%, if the Ordinance making extensive changes to the Tax Code becomes law and be effective from 1 January 2005. | taxe rate is 16% |

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| Exemption of Business Income | | | |
| Yes, for NGOs other than foundations and funds. Profits of less than CK 300,000 are exempt. NGOs may deduct 30% from their tax base up to CK 1 million if tax savings are used to cover expenses from or advance tax exempt activities. Passive investment income is generally taxed; however, foundations are exempt on income from foundation property (endowment). | Income from related business activities is exempt from tax if a) the business activity is not conducted at a price advantage in competition with for-profit entities, and b) the income is proportionate to costs. The determination of proportionality is made by comparison to the income/cost ratios of "other persons." Income from related activities up to 300,000 SK is exempt. | If an NGO is performing economic activities apart from its nonprofit purposes, they are exempt if the income doesn't exceed 15000 EURO per year and doesn't represent more than 10% of total non-taxable revenues. Romanian foundations created by will (testament) are exempt from tax on profit. If a foundation or association conducts economic activities as well as charity or sponsorship activities, the organization may claim tax deduction for expenses incurred in charity or sponsorship activities calculated in accordance with the tax law up to 5% of the difference between annual gross revenues and gross expenditures. | The corporate income tax law applies to all types of organizations, and all types of NGOs are entitled to claim various tax benefits available under the law. Hungarian law creates two categories of public benefit organizations (PBOs) entitled to greater tax - preferences. A PBO has a tax-free cap at 10% of income from economic activities not to exceed 20 million HUF. An "Prominently" public benefit organization has tax free cap at 15% of income without limit on total income. A non-PBO may have income from economic activities up to 10% of its total income or 10 million HUF tax exempt. |
| VAT | | | |
| Goods and services related to a not-for-profit organization's statutory activities are exempt, as are operators of public television and radio broadcasters, educational activities, and providers of health care and social services under a special regulation. Non-business entities that conduct economic activities may become VAT payers if their turnover from business activities exceed 700,000 CZK in 3 consecutive months. Certain goods and services, e.g., health care services and equipment for the handicapped, are subject to a lower VAT rate of 5%. VAT rate is 22%. | Legal entities not established to conduct business do not register as VAT payers. Non-business entities that conduct economic activities may become VAT payers if they have business licenses and their turnover from business activities exceed 750,000 SK. Activities exempted from VAT include education, training, scientific, health care, and social care services. VAT rates are 10% and 23%. | Foundations and Associations are subject to VAT if they conduct economic activities. NGO's are not obliged to pay value-added tax, unless their economic activities generate a turnover of more than 50000 Euro (2,000,000,000 ROL). Nonprofit org. are exempt from VAT for all social, charitable, civic, political or religious activities. VAT rate is 19%. | Taxpayers whose annual income from economic activity is less than 2 000 000 HUF may elect tax-exempt status at the outset of the tax year. In addition, NGOs that do not pay any remuneration to individuals during the tax year may request VAT exempt status from the tax authorities. Some services often provided by NGOs, such as social care and health services, as well as member services and community organizing services are VAT exempt. VAT rates are 15% (exceptional rate) and 25% (usual rate). |

| Comments | | | |
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| <p>All types of activities which generate income in excess of related expenses, regardless of whether they are related to the organization's main purpose, must be accounted for and reported separately. Foundations, funds and public benefit corporations are exempt from any fees connected with registration (incorporation) deeds.</p> | <p>A related business activity is one that is not defined in the organization's statutes as its primary purpose, but is necessary to ensure that the organizations' statutory activities are carried out.</p> | <p>Foundations, and public benefit corporations are exempt from any fees connected with registration (incorporation) deeds.</p> | <p>A "public benefit organization" may be a foundation, association, public law foundation, public law association, or public benefit company, and must pursue a public benefit activity listed in the law. A "prominently public benefit organization," which is entitled to the highest level of tax benefits, must in addition undertake duties that are ordinarily considered state or local government duties. Profits from Public Benefit Organization may not be distributed and must be spent only on activities defined by the organization's funding document. Foundations and public benefit corporations are exempt from any fees connected with registration (incorporation) deeds.</p> |
| Organizational Forms | | | |
| <p><u>Associations</u> - The Citizens Associations Act, No. 83/1990 (Zákon o sdružování občanů) <u>Public Benefit Organisations</u> - The Public Benefit; Corporations Act, No. 248/1995; (Zákon o neziskových organizacích poskytujících veřejnoprospěšné služby) <u>Foundations</u> - Foundations and Endowment Funds Act, No. 227/1997; (Zákon o nadacích a nadačních fondech)</p> | <p><u>Civil Association</u> (Občianske združenie) - The Citizens Association Act, No. 83; (Zákon o združování občanov) <u>Service providing Nonprofit Organisations</u> - The Law on Non-Profit Organizations Providing Generally Beneficial Services, No. 213/1997 (Amended by Law No. 35/2002); (Zákon o neziskových organizacích poskytujících veřejnoprospěšné služby) <u>Foundations</u> - The Law on Foundations and the Change of the Civil Code as Amended by Later Acts, No. 34/2002 (Replaced the Law on Foundation; (Zákon o nadáciach) <u>Non-Investment Funds</u> - The Law on the Non-Investment Funds and on Changing and Amending Law No.147/1997 (Zákon o neinvestičných fondoch)</p> | <p>Government Ordinance 26/2000 as amended by Ordinance 37/2003 regulating: - <u>Associations</u> - <u>Foundations</u> - <u>Federations</u></p> | <p><u>Association</u> - Law on Association Act II of 1989 <u>Foundation and Public Benefit Company</u> - Civil Code Act IV of 1959</p> |

| 1% law | | | |
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| NO - but if approved by the government and by the Czech parliament, the 1% system could enter into force in 2005. | From 2004 both Slovak individual and corporate taxpayers will be able to assign up to 2% of their tax liability to NGOs registered to receive such funds. | Romanian citizens will be able to designate 1% of their income tax to the NGO of their choice as stipulated in the new Tax Code passed by the Romanian Parliament at the end of 2003. Tax designations will be applied for the year 2004. | Individual taxpayers may designate 1% of their income taxes paid to a qualifying NGO (or listed budgetary institutions). Another 1% to a church (or a special budgetary institution). |

Applicable law

CZECH REPUBLIC

Foundations and Endowment Funds Act, No. 227/1997;
 The Citizens Associations Act, No. 83/1990
 The Public Benefit; Corporations Act, No. 248/1995;
 The Income Taxes Act, No. 586/1992 (Amended by 117/2001);
 The Accounting Act, No. 593/1991 (Amended by 117/1994; 227/1997; and 492/2000);
 The Civil Code, No. 40/1964 (Amended through 2000);
 The Law on Public Collections, No. 117/2001;
 The Inheritance Tax, Gift Tax, and Real estate Transfer Tax Act, No. 357/1992
 The Public Procurement Act, No. 199/1994 (Amended by 148/1996; 93/1998; and 28/2000)
 The Public Support Act, No. 59/2000;
 The Value Added Tax Act, No. 588/1992 (Amended by 196 and 321/1993; 42, 136 and 258/1994; 133/1995; 151/1997; 121/2000);
 The Excise Duty Tax Act, No. 587/1992 (Amended by 199 and 325/1993; 136 and 260/1994; 148/1995; 95/1996; 61 and 303/1997; 129/1999; 22 and 241/2000; and 141 and 262/2001)

SLOVAKIA

The Citizens Association Act, No. 83
 The Law on Non-Profit Organizations Providing Generally Beneficial Services, No. 213/1997 (Amended by Law No. 35/2002)
 The Law on Conditions and of Transformation of Certain Budgetary Organizations and Subsidiary Organizations into Non-Profit Organizations Providing Generally Beneficial Services, No. 13/2002
 The Law on Foundations and the Change of the Civil Code as Amended by Later Acts, No. 34/2002 (Replaced the Law on Foundations, No. 207/1996 as amended);
 The Law on the Non-Investment Funds and on Changing and Amending Law No.147/1997
 The Law on Income Tax, No. 286/1992, 1992 (Amended by 366/1999);
 The Public Procurement Tax, No. 263/1993;
 The Real Estate Tax, No. 93/1994;
 The Law on the Inheritance Tax, Gift Tax, and Tax on Conveyance and Transfer of Real Property, No. 314/1992;

ROMANIA

Government Ordinance 26/2000, Government Ordinance part about "public benefit status" 37/2003
 Government Ordinance 68/2003 (accreditation for providers of social services)
 Law on Profit Tax 414/2002 Government Decision 859/2002 approving the instructions regarding the methodology for calculation of profits tax
 Law on Sponsorship No. 32/1994 (amended 1998 and Emergency Ordinance No.127/1999)
 Tax Code 22/12/2003 (Law No. 571/2003) and Tax Procedure Code (Government Ordinance 92/2003)

HUNGARY

Act CXLIV of 1997 – on Public Benefit Organizations
 Law on Association Act II of 1989
 Act IV of 1959 (as amended in 1993) Civil Code
 Government Decree 114/1992. (VII. 23.)- on the Order of Financial Management of CSO's
 Government Decree 115/1992 (VII. 23.)- On the Order of Financial Management of Foundations
 LXXXI./1996. about corporate income tax and capital return tax (7-9.§, 13§, 20§)
 Act CXXVI of 1996, on the Use of a Specified Portion of Personal Income Tax According to the Designation of the Taxpayer (as amended in 1997, 2001)

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