



Nonprofit  
Enterprise and  
Self-sustainability  
Team (NESST)



# The Legal and Regulatory Framework for CSO Self-financing in Peru

Written by Beatriz Parodi  
Edited by Nicole Etchart

This guide examines the legal and regulatory framework governing the self-financing activities of civil society organizations (CSOs) in Peru and provides an assessment of the relevant laws and their practical effects in order to identify areas where the law might be improved. Chapter 1 explains the regulatory environment as it relates to self-financing, defines the concept of CSO self-financing, and explains the methodology NESST used in researching and assessing the current legal framework in Peru. Chapter 2 outlines a typology initially developed by the International Center for Not-for-Profit Law (ICNL). Chapter 3 describes the current regulatory framework in detail and its application in Peru. Although CSO self-financing activities are permitted in Peru, this chapter illustrates that tax laws vary, especially in regard to income tax, depending on the social purpose of the organization. This chapter also explains the procedures for CSOs to follow and includes a case study. Finally, Chapter 4 discusses the Peruvian legal framework for CSOs carrying out commercial activities and makes recommendations for improvement.

---

This publication contains information prepared by sources outside NESST, and opinions based on that information. NESST strives to provide accurate information and well-founded opinions, but does not represent that the information and opinions in this publication are error-free. The laws and regulations cited herein may change.

This publication is for informational purposes, and NESST is not engaged in providing legal advice. As legal advice must be tailored to the specific circumstances of each situation, the information and opinions provided herein should not be used as a substitute for the advice of competent counsel.

For more information on NESST, its publications and services, please contact:  
NESST  
José Arrieta 89, Providencia  
Santiago, Chile  
Tel: +(56 2) 222-5190.  
nesst@nesst.org  
www.nesst.org

---



NESsT wishes to acknowledge the following people for their invaluable contribution to the development and publication of this guide:

**Beatriz Parodi Luna** is a Peruvian attorney, legal consultant and specialist in nonprofit entities and international technical cooperation. Beatriz was responsible for the legal editing of this guide, based on her knowledge of the Peruvian legal framework for nonprofit organizations, as well as the development of chapters 3 and 4. She has been a professor in the area of Legal Entities at the School of Law of the Pontifical Catholic University of Peru (Lima). Beatriz currently works as a legal consultant for public and private entities in general, both for-profit and nonprofit, with a special emphasis on the latter. She has conducted research on the Third Sector and corporate social responsibility and has presented at a variety of national and international events and conferences on the Peruvian legal framework for nonprofit entities. She is a member of the Advisory Council of the International Center for Not-for-Profit Law (ICNL) and a member of the board of the Peruvian Association of Alumni of IDLO (International Development Law Organization, based in Rome).

The International Center for Not-for-Profit Law provided the typology for classifying the use of economic or commercial activities among civil society organizations and the framework for assessing the Peruvian legislation. Anna Zucchetti, CEO of GEA, provided information on the organization's legal status and the legislation that governs its self-financing activities. The guide was edited by Nicole Etchart, Co-founder and CEO of NESsT. It was translated by Kerry Dudman, and developed with the editorial support of Rosario Payet, Ana Victoria Soto, Hazel Vargas, Kora McNaughton and Carola Delgado; Jorge Moraga did the layout.

Finally, NESsT would like to acknowledge and thank the International Finance Corporation (IFC) Grassroots Business Initiative; the Multilateral Investment Fund (MIF) of the Inter-American Development Bank; Open Society Institute Foundation (Zug); CARE Enterprise Partners; the Rohatyn Group; and the Tinker Foundation for their support in the development and publication of this guide.



# Setting the Stage: Purpose and Methodology



---

The term “civil society organization” (CSO<sup>1</sup>) encompasses nonprofit, non-state organizations as well as community-based associations and groups that fall outside the realm of the government and business sectors. Given limited philanthropic and government assistance, many CSOs undertake self-financing activities<sup>2</sup> to generate revenues in support of their mission and programs.

NESST has documented hundreds of cases of CSOs in Latin America and Central Europe which engage in these types of activities, and has analyzed the impact of these strategies on the organizations’ performance and sustainability. An important factor that emerged from this research is the need for a clear and supportive legal and regulatory framework to encourage the adoption of self-financing strategies among CSOs. This framework defines whether or not CSOs may engage in self-financing activities and influences the way in which they do so. The tax structure, the level of bureaucracy, and the clarity of existing laws are also factors that have a direct bearing

---

<sup>1</sup> In Peru, this definition includes the legal classifications of association, foundation, and committee.

<sup>2</sup> NESST uses the term “self-financing” to refer to diverse strategies used by civil society organizations to generate their own revenues (sale of products, service fees, use of hard or soft assets, membership dues, and investment dividends). NESST uses the term “social

enterprise” to refer to self-financing activities that are designed by a CSO to significantly strengthen the financial sustainability and the mission impact of the CSO.



on the development of self-financing activities. CSOs are often unaware of these regulations. Many organizations believe that they cannot practice self-financing activities or income-generating business activities; others feel that if they do, their reputation or relationship with donors will be adversely affected. Even when CSOs are aware of the respective legislation, they often do not understand what taxes they need to pay, what forms to file, or what administrative procedures to follow.

The purpose of this guide is to clarify the legal framework for CSOs in Peru and to assess the degree to which this framework provides an enabling environment for them to pursue self-financing strategies.

## 1.1 What Is Self-financing and Why Is It Important?

4

Self-financing or self-financing strategies are used by CSOs to generate revenues in support of their missions. The use of these strategies is a response to the current funding paradigm in which CSOs compete for a limited pie of existing government and philanthropic funding from both national and international sources. This reality makes many CSOs heavily dependent on short-term, project-based funding and prevents them from focusing their attention on long-term, strategic development. Through self-financing, CSOs may be able to increase their long-term viability and independence by generating some of their own resources to supplement support from public and private donors.

Self-financing does not necessarily lead to the commercialization of CSOs. Rather, it can provide these organizations with a greater level of independence and sustainability without compromising their mission purpose or values. Income from self-financing can be one alternative for CSOs to support work that is often more difficult to

finance through traditional sources of funding, such as core operating expenses, new programs, advocacy efforts, and others.

NESsT does not believe that self-financing should entirely replace traditional sources of financing, but instead posits that self-financing can provide a powerful complement to government and philanthropic support. Through self-financing, many CSOs are not only financially strengthened, but also institutionally empowered by their own ability to generate new revenues and to determine the course of their work with fewer constraints from donors.

Furthermore, when pursued in a socially and environmentally responsible manner, the enterprise activities of CSOs can help create an “alternative economy” more responsive to the needs of local communities, small producers, and low-income people. By purchasing products and services sold by CSOs, consumers are simultaneously promoting their missions and contributing to a more equitable and sustainable world.

Types of self-financing activities include the following:

- *Membership dues:* raising income through dues from members or constituents in exchange for some kind of product, service, or other benefit. An example of this would be a newsletter or magazine for members, or discounts on products or services<sup>3</sup>. If the fee is not paid in exchange for a product or service, it is considered a donation.
- *Fees for services:* capitalizing on some existing skill or expertise of the organization by contracting work to paying clients in the public or private sector (for example, a CSO provides consultation services to businesses or local government agencies).
- *Product sales:* Selling, rather than giving away,

<sup>3</sup> NESsT is aware that under the current legal framework in Peru, membership dues are not considered business activities.



the products of projects (for example, books or other publications); reselling products (for example, in-kind donations) with a mark-up; or producing and selling new products such as T-shirts or mugs.

- *Use of “hard” assets:* renting out real estate, space/facilities, equipment and other assets, when not in use for mission-related activities.
- *Use of “soft” assets:* generating income from patent licenses or other intellectual property or by endorsing products with the CSO’s name or reputation.
- *Investment dividends:* passive investments such as savings accounts and mutual funds, or other more active and sophisticated financial transactions (for example, active trading on the stock market or engaging in debt swaps).

As previously mentioned, CSOs engage in self-financing activities primarily to strengthen their financial resources or to advance their social purpose. Some of these may be solely interested in generating profits that they can use to fund core mission programs. In these instances, the organization is not concerned with advancing its social mission *directly* through self-financing, but rather *indirectly* by applying the profits earned through this activity to further its social mission. An example of this is a health education organization that starts a printing business and uses the revenues to fund research projects. This activity would be considered non-mission-related.

Other CSOs may be primarily interested in using a self-financing strategy to advance their social mission. For example, a CSO whose social mission is to offer carpentry training and job placement to recovering substance abusers may begin selling the furniture that the trainees produce in order to pay for the costs of the materials and the salaries of the trainees. This activity would be considered *mission-related*.

These two examples are not mutually exclusive, and neither are the financial and social goals that motivate CSOs engaging in self-financing activities. Many times, CSOs aim to achieve financial and social goals simultaneously through self-financing. The health organization may be better positioned to disseminate the findings from its research by publishing its own materials, and the job training organization may be able to apply surpluses from its furniture sales to fund other programs of the organization or its core operating expenses. In each of these scenarios, the objectives of CSO self-financing activities and the relationship between these activities and the organization’s primary mission are fundamental in determining the legal treatment of these activities, as this guide will illustrate.

Generally speaking, all legal entities (as is the case with CSOs in Peru that are organized under the legal classifications of association, foundation, and even committee; the most common of these is association) are governed by “specialty” doctrine. This implies that they may undertake any activity or contract that is directly or indirectly related to their social purpose.

## 1.2 Purpose and contents of this guide

In an attempt to diversify their funding base, many Peruvian CSOs have initiated self-financing strategies. For the most part, however, most of these have done so with little expertise, capital, or other forms of support. NESST research on the use of self-financing among CSOs in Latin America in general and in Peru in particular, demonstrates that many do not have the internal capacity (skills, human resources, adequate financial systems, stakeholder support, business plans) or the external support (financing, consulting support, favorable legal and regulatory environment) to engage in self-financing activities. When such organizations nevertheless attempt to pursue self-financing strategies, a great deal of stress is



put on their staff and indirectly on their other programs and the underlying mission. When a CSO decides to pursue self-financing activities, it is important that it do so with the appropriate levels of technical and financial assistance and within an external framework that makes such activities possible.

The pressures and demands faced by CSOs engaging in self-financing activities in Peru highlight the need to understand the legal framework affecting them. In this context, the purpose of this guide is to address the following areas:

1. *Outline the key laws, regulations, and procedures governing the use of self-financing by CSOs in Peru.*

Chapter 3 explains what Peruvian law, specifically the Civil Code and tax law, says about the use of self-financing (the terms “commercial activities” or “business activities” are also used in Peru). It provides an analysis of the administrative registries and tax regulations that apply to CSOs engaging in such commercial activities. The chapter also offers a general overview of these laws and regulations, so that Peruvian CSOs have a clear idea of where they fit within the legal system and the tax implications of the commercial activities they operate for self-financing.

2. *Assess the relevant laws governing CSO self-financing activities in Peru, evaluate their practical effects, and identify areas where the law might be improved.*

The guide identifies the strengths and weaknesses of Peruvian laws — whether they are a help or a hindrance to self-financing, whether they allow for transparent use of self-financing, and whether they foster the development of the CSO sector as a whole. The legislation is analyzed within a tax treatment typology that makes it easy to understand and assess.

This typology was first developed by the International Center for Not-for-Profit Law (ICNL) to examine the legal treatment of CSO economic and commercial activities in Central and Eastern European countries<sup>4</sup>. It has now become a widely accepted typology for understanding and assessing the tax treatments of such activities. The ICNL typology is presented in Chapter 2; Peruvian legislation is analyzed in the context of this typology in Chapter 3; and the criteria presented are used as a basis for the assessments and recommendations offered in Chapter 4.

### 1.3 Background and Methodology

This guide is a component of NESST’s efforts to foster self-financing among CSOs in Latin America. In 1999, NESST began conducting applied research on CSO self-financing in the region in order to identify common challenges and needs. The objectives of the applied research were as follows:

- Assess the current use of self-financing activities among CSOs in Latin America. NESST has completed 15 case studies (including three Peruvian cases), documenting success stories and obstacles in self-financing activities carried out in five Latin American countries<sup>5</sup>.
- Examine the current legal environment for CSO self-financing in the region overall, specifically in Colombia and Chile, including the regulatory and tax framework in place at local and national levels that affects these activities.
- Disseminate lessons from the research – by

<sup>4</sup> ICNL is an international organization whose mission is to facilitate and support the development of civil society and the freedom of association on a global basis. ICNL, in cooperation with other international, national, and local organizations, provides technical assistance for the creation and improvement of laws and regulatory systems that permit, encourage, and regulate the not-for-profit, non-governmental sector in several countries around the world. ICNL maintains a documentation center for laws, regulations, self-regula-

tory materials, and other relevant documents; provides training and education; and conducts research relevant to strengthening and improving laws affecting the NGO sector. For more information on ICNL, see [www.icnl.org](http://www.icnl.org).

<sup>5</sup> These cases were included in *Risky Business: The Impacts of Merging Mission and Market*, published by NESST in 2003.



publishing case studies and legal guides and organizing local workshops – for stakeholders from all sectors in an effort to develop strategies for assisting CSOs in the use of self-financing.

The research methodology for this guide was developed by NESST to assess the legal framework for CSO self-financing activities in a given country. This methodology strives to help answer the following core concerns and questions:

1. *What the law states.* What is the current legal treatment of CSO self-financing activities, including current legislation, legal provisions, history of the law, revisions of the law, regulatory approach, tax rates, reporting requirements, other laws or regulations, legal cases, and organizations or lawyers providing advice or assistance?
2. *How is the law understood?* Are the regulations of CSO self-financing activities understood by CSOs?
3. *Effects of the law.* What is the effect of current regulations on CSO self-financing activities?
4. *Recommendations for the law.* What are the most important recommendations for addressing current regulatory problems?

Beatriz Parodi Luna, an attorney and specialist in nonprofit entities and international technical cooperation with extensive experience in analyzing the legal framework governing CSOs, collaborated with NESST on the development of chapters 3 and 4 of this guide. She considered the core issues and concerns arising from the NESST methodology. She also conducted a legal review of Chapters 1 and 2 drawing on her knowledge of Peruvian legislation and her practical experience, the product of more than 15 years of legal consulting and advising for nonprofit entities and international technical cooperation agencies. She also considered research and papers she has developed on the issue, including “The

Regulatory Framework for Civil Society Organizations in South America” (Marco Regulador de las Organizaciones de la Sociedad Civil en Sudamérica), compiled and edited by ICNL in 1997.

Likewise, in preparing this guide, NESST drew from the research for “Self-financing Activities Among Civil Society Organizations in Peru: A National Assessment”, which included interviews with CSOs, donors, CSO support organizations, academics, and other experts in the area. This research was commissioned by NESST to Juan Luis Dammert, for presentation at the Social Enterprise Symposium in June 2006 in Santiago, Chile, and was expanded, updated, and published by NESST in 2007<sup>6</sup>. In addition, three case studies were developed to provide an in-depth look at the CSO experience in this area. To illustrate the legal framework developed in Chapter 3, we have included a case study of Environmental Enterprise Group (Grupo de Emprendimientos Ambientales, or GEA) a Peruvian CSO.

<sup>6</sup> Juan Luis Dammert is a sociologist and professor at the Pontifical Catholic University of Peru.





# A Typology for Assessing the Legal and Regulatory Framework



This chapter presents a typology for analyzing the regulations that govern CSO self-financing activities. The typology was developed by ICNL<sup>7</sup>. NESST has expanded and modified the typology to be more applicable to the Peruvian legal system. The following section presents four key areas that are vital for understanding the legal structure for CSO self-financing before assessing the specifics of Peru: 1) the legal characteristics of CSOs; 2) the legal definition of self-financing; 3) the criteria for permitting self-financing; and 4) the taxation of self-financing activities.

It is important to note that in its texts, ICNL uses the term “nonprofit organizations” (NPOs) or “NGOs” which refers to a subgroup of the broader classification of “CSOs,” the term used by NESST. This guide uses the term “CSO,” except in parts that specifically draw upon the ICNL typology, where it maintains the original ICNL terminology. The broad scope of organizations encompassed by the term “CSO” is consistent with existing Peruvian law in the Civil Code with regard to nonprofit legal entities: associations, foundations, and committees. The term most commonly used in Peru by CSOs is civil association, and therefore,

<sup>7</sup> The overall typology presented in this chapter was adapted, with permission, from the paper “Regulating Economic Activities of Not-for-Profit Organizations” that was first prepared by ICNL for the Regulating Civil Society” Conference in Budapest, Hungary, in May

1996 (copyright ICNL, 1997) and from the *Handbook on Good Practices Relating to Non-Governmental Organizations, Appendix I: Economic Activities and Taxation* (copyright ICNL, 2000).



this guide primarily considers the case of CSOs that are legally organized as such.

## 2.1 Legal Characteristics of Nonprofit Organizations

The characteristics listed below highlight the key differences between nonprofit and for-profit organizations and therefore provide a context for understanding how nonprofit organizations engage in self-financing activities. The discussion that evolves in this chapter and the rest of the guide addresses a subgroup of all NPOs: those whose philanthropic purposes are intended to promote the public benefit. There is no agreed-upon definition of what constitutes the public benefit, which is why a large part of Chapters 3 and 4 addresses this issue in terms of Peruvian law. It is important to recognize that some NPOs, such as mutual associations of stamp collectors or chess players, may not pursue public benefit goals. These organizations are still considered NPOs and generally the same regulations apply to them, *but this guide will address only those NPOs that pursue the public benefit.*

ICNL, however, does make this distinction between NPOs, and its typology accordingly identifies two basic legal assumptions that distinguish public benefit NPOs from for-profit entities:

1. *Non-distribution constraint.* Although NPOs are not prohibited from generating profits, these profits may not be distributed to private parties who might be in a position to control them for personal gain, such as founders, members, officers, directors, agents, employees, or any related party.

2. *Public-benefit purpose.* By definition, this class of NPO is organized and operated primarily to provide a public benefit.

These characteristics are not dependent on the particular legal form of the NPO. Accordingly,

this discussion addresses NPOs of various legal forms as long as they provide a public benefit and uphold the principle of non-distribution (non-profit purpose).

**Organizations are considered NPOs as long as they provide a public benefit and uphold the principle of non-distribution.**

However, as explained in Chapter 3, the Civil Code of Peru, which regulates nonprofit legal entities, considers the following legal types:

- a) The civil association is the typology most used by NPOs. It is broadly defined as “a stable organization of natural persons or legal entities or both, who pursue a nonprofit purpose through a common activity” (Article 80). As can be seen, this definition is very broad and flexible and is not necessarily related to the fulfillment of a “public or social interest” purpose. Consequently, the distinctive feature of an association is the nonprofit status (the non-distribution of equity or income between members) and not the type of activity it develops.
- b) The foundation is a non-associative organization that pursues religious, aid-based, cultural or social interest purposes (article 99 of the Civil Code).
- c) The committee, which is rare, is an organization with a specific purpose, dedicated to public fundraising for an altruistic end (article 111 of the Civil Code).

## 2.2. Legal Definition of Self-financing

There are many terms and definitions, both legal and non-legal, currently in use to describe activities that generate revenues for CSOs (e.g., commercial activity, economic activity, philanthropic enterprise, social enterprise, social-purpose business, earned income, income-generating activity). ICNL uses the term “economic activity” to refer to self-financing activities. ICNL defines economic



activities as “regularly pursued trade or business activities,” with the exception of those that have traditionally been excluded (such as ticket sales for cultural events, tuition fees at educational institutions, and patient fees at nonprofit hospitals). NESST, on the other hand, uses the term “self-financing” to refer to activities that generate revenues for CSOs, including the six types of activities described in the previous chapter.

**Peruvian legislation does not differentiate between “commercial activities” and other types of income-generating activities for CSOs.**

In fact, in Peru both the Civil Code and the general tax framework (especially the Income Tax Law) do not expressly differentiate between “commercial activities” and other types of income-generating activities for CSOs. A provision indicating that CSOs were not exempt from income tax on “income from commercial operations other than the purposes expressed in their bylaws” was recently overruled, and the regulation on this was never issued.

This guide refers to the general term “commercial activities” specifically for the Peruvian context in Chapters 3 and 4, as this term (or “economic activities”) is more commonly used in Peru to refer to activities or operations that CSOs adopt to generate revenue, whether these are directly related to their social purpose or they contribute to sustainability. Likewise, this guide uses the terms self-financing and economic activities interchangeably when presenting the ICNL typology.

### 2.3 Criteria for Allowing Self-financing

According to ICNL, “a threshold issue is the extent to which NPOs should be permitted to engage in economic or commercial activities without losing their philanthropic status.” At this stage

of the analysis, the question is not whether such activities should be tax-exempt, but under what circumstances they should be permitted at all.

**At this stage of the analysis, the question is not whether such activities should be tax-exempt, but under what circumstances they should be permitted at all.**

In countries that permit CSOs to participate in commercial activities, NESST considers that excluding CSO commercial activities is not a good regulatory practice, because it limits the sustainability of the sector. There are two typical tests used by governments around the world for determining whether economic activities are “nonprofit” or “for-profit”:

1. **Principal-purpose test.** The principal-purpose test provides one legal model for regulating NPO self-financing. It does not prohibit the use of self-financing activities, but rather emphasizes that the NPO is established and operated primarily for nonprofit purposes and not for private gain. This criterion implies that self-financing would be for mission-related purposes and would not be the principal activity of the organization. Common examples of principal-purpose tests found in regulatory frameworks of many countries are: that economic activities are not the principal purpose (i.e., the principal activity) of the NPO; that economic activities are complementary (or additional) to the NPOs programs; or that economic activities are related to institutional objectives.

2. **Destination-of-income test.** Contrary to the principal-purpose test, the destination-of-income test, in its pure form, ignores the economic or commercial nature of the activity in question and focuses exclusively on the purposes for which profits from the activity are used. Under this test, an organization must devote all of its income to its not-for-profit purposes in order to qualify as an NPO. Accordingly, an organization that spends 99% of



its time pursuing commercial endeavors, spends 1% of its time undertaking public-benefit activities, and devotes all of its profits to these public-benefit activities could still qualify as an NPO. An example of a destination-of-income test is when the profits from economic activities are used to support the organization's mission purpose and not distributed as earnings.

Under either test, an NPO is permitted to engage in economic activities that further the mission (nonprofit purposes) for which it is organized. It should be noted that governments can — and in some cases do — use a combination of conditions under the principal-purpose test and destination-of-income test to determine whether the economic activities of an NPO are permitted. For example, a government can authorize only those commercial activities which are related to the mission of an NPO (principal-purpose test) and require that the revenues from these be used exclusively for mission-related activities (destination-of-income test). But what justification is there for governments to permit NPOs to conduct self-financing activities? There are two main public policy rationales for permitting NPOs to engage in such activities:

1. *Self-financing applies non-public resources to the public good.* Income from economic activities is a primary source of funds for NPOs (particularly in emerging market countries, where there is an absence of private capital and philanthropic tradition) and enables them to do their public-benefit work with less dependence on governmental support and charitable donations.

2. *Self-financing accomplishes public-good objectives.* Certain economic and commercial activities directly accomplish public-benefit purposes. For example, although the sale of a book on teaching techniques by an educational organization is an

economic activity, the distribution of the book directly serves the public-benefit purpose of promoting education. Preventing NPOs from using such commercial and economic means to attain their goals could directly impair their ability to serve public-benefit purposes.

**Preventing NPOs from using self-financing activities to attain their goals could directly impair their ability to serve public-benefit purposes.**

## 2.4 Taxation of Self-financing Activities



Although the legal treatment of CSO self-financing varies on a practical level from country to country, most have avoided going to extremes (i.e., a complete prohibition on economic activities or, conversely, allowing economic activities to be the principal activity of the organization). However, the important issue is the tax treatment of such activities. Governments have typically employed four approaches, singly or in combination, to determine the tax treatment for CSO self-financing activities:

1. *Blanket tax.* A “blanket tax” policy is applied to income from all economic activities, regardless of the source or destination of the income. Under this approach, the organization is not limited by level or type of activity, but is taxed on all revenues generated by these activities regardless of how the revenues are used.

2. *Destination-of-income tax.* A “destination-of-income tax” policy exempts income from economic activities that is used for public-benefit purposes. Under this approach, the organization is not limited by level or type of economic activity, but is taxed on all income that is not used to further its public-benefit purposes.



3. *Source-of-income tax.* A “source-of-income tax” policy focuses on the source of the income, granting a tax exemption only when the income is generated by activities that are related to the public-benefit purposes of the organization. Under this approach, the organization is taxed for all income generated from non-mission-related activity even if the income is used to support mission-related programs.

4. *Mechanical tax.* A “mechanical tax” policy makes a rigid distinction based on “mechanical” criteria in order to determine the difference between economic activities that are taxed and those that are not; or it may establish an exemption ceiling (a maximum profit level). Income levels below the ceiling are tax-exempt and above it they are taxable.

**Governments have typically employed four approaches, singly or in combination, to determine the tax treatment for CSO self-financing activities.**

Some governments have created hybrid tax policies that are based on one, two or more of these approaches. For example, it is possible to allow net income from economic activity to be tax-exempt below a specified threshold and to apply a mission-relatedness mechanical test to determine whether net income above that threshold should be taxed.

The following chapter analyzes the legal framework in Peru and the criteria that apply to the “destination-of-income” tax. These criteria indicate that in order to qualify as NPOs, CSOs must put all their profits toward nonprofit purposes. In terms of income tax, a “destination-of-income tax” is applied, which exempts from tax all profits from economic activities that are for public-benefit purposes. The Income Tax Law does not make a distinction among origins or sources of income (for income from commercial activities), but

instead generally establishes a (temporary) tax exemption for associations and foundations whose self-financing income is used for specific and exclusive purposes in the country.

No general exemption exists for CSOs based on their nonprofit status; rather, the exemption is given under the Income Tax Law provided that this income or revenue is not directly or indirectly distributed among members (nonprofit status).

There is no consensus on which of these tax approaches is best, since each entails certain benefits and costs and defines a different public policy objective. ICNL applies five criteria to shed light on the practical implications of each approach.

1. *Simplicity or complexity of administration.* Blanket taxation of all economic activity is the simplest approach to administer. Once economic activities are defined, NPOs are treated the same way as for-profit organizations. The “destination-of-income” rule is slightly more complex to administer. The main difficulty is establishing and enforcing criteria for what constitutes expenditures to support public-benefit purposes. A “mission-relatedness” test (source-of-income tax) is the most complicated to apply because it is difficult to specify the necessary connection between the economic activity and the public-benefit purpose.

2. *Effects on revenue collection.* Assuming the tax rates under the various treatments are equal, the greatest tax revenue is generated under the blanket taxation approach, since it subjects the largest number of NPO self-financing activities to taxation. However, it is empirically unclear how much tax would in fact be collected, because, all things being equal, the level of commercial activities by NPOs will presumably be lower under this rule than under the others (because taxation provides a disincentive for CSOs to initiate commercial activities).



In its purest form, the “destination-of-income” rule has the lowest potential to produce tax revenue because all income, regardless of the source, is free from taxation if it is applied toward public-benefit purposes. In practice, many countries impose limits on the amount of income that is exempt under the “destination-of-income” rule, thereby limiting potential losses to the state’s revenue base. The “mission-relatedness” test also potentially reduces the size of the tax base, but probably less so than the “destination-of-income” test, because it only provides tax benefits for mission-related activities. However, it has the additional benefit of channeling NPO economic activity into specific areas that produce public benefit.

3. *Effects on the commercial sector.* The “blanket taxation” approach to NPO income from economic activities is most favorable for the commercial sector, since there is no possibility of “unfair” or prejudicial competition (i.e., NPOs do not receive preferential tax treatment when compared to for-profit entities). The “destination-of-income” rule does nothing to prevent claims of unfair competition, since the nature of the use of income may give NPOs a tax advantage that their for-profit competitors do not share. However, a limit on this benefit reduces the comparative advantage for NPOs. The “mission-relatedness” test minimizes unfair competition by encouraging NPOs to focus on activities that produce a public benefit and by applying the standard tax treatment used for for-profit enterprises when NPO activities are conducted purely for profit. The difficulty in implementing this “mission-relatedness” rule lies in establishing which economic activities advance the public benefit and which do not (or which do not advance it enough).

4. *Effects on the development of the NPO sector.* The “blanket taxation” approach reduces resources for the nonprofit sector, essentially transferring money from NPOs to the public sector. It is generally accepted that NPOs devoted to public-benefit purposes should at the very least not be

required to transfer resources to the state if they are not eligible for state subsidies (similar to for-profit enterprises). Blanket taxation of all NPO income from economic activities eliminates the incentive to engage in income-generating, public-benefit activities and is the most unfavorable to the nonprofit sector. NPO proponents claim that such taxes should be at a lower, more preferential rate than taxes for for-profit enterprises.

The “destination-of-income” rule provides the greatest potential revenue to NPOs, since virtually any income can be made tax-exempt if channeled into public-benefit activities. The “mission-relatedness” test is less favorable to NPOs because activities that are undertaken purely to obtain revenue enjoy no tax exemption. However, the “mission-relatedness” test still provides significant tax benefits for NPOs, particularly when they focus on activities associated with public-benefit purposes. Moreover, this approach channels NPO economic activities into more socially beneficial directions than the “destination-of-income” test, which encourages NPOs to engage in economic activities that can earn the greatest potential financial return but not necessarily the greatest social return.

5. *Practical implementation issues.* The “blanket taxation” approach is the easiest approach to implement, since there are uniform rules for NPOs and for-profit organizations alike. The “destination-of-income” rule uses a mechanical approach that is relatively easy to administer, although it is necessary to define what constitutes expenditures toward furthering public-benefit purposes and to supervise the actual use of profits. Nonetheless, it is still necessary to monitor NPOs and their use of funds, and this “policing” function may prove to be administratively difficult. Moreover, this approach creates a greater potential for abuse by unscrupulous individuals seeking to use NPOs as vehicles for tax evasion. The “mission-relatedness” test is relatively difficult to implement, since a precise definition and application of this concept



is elusive. However, it tends to work best when developed over time through administrative practice. This “mission-relatedness” approach is also the most likely to keep NPOs focused on economic activities that also provide public benefit.

Chapter 1 presented a background for understanding CSO commercial activities; Chapter 2 established the analytical typology for assessing the legal framework that governs such activities. Chapter 3 discusses Peruvian laws and regulations that are relevant to CSO commercial activities. Chapter 4 evaluates the existing Peruvian legislation using the typology presented in Chapter 2.





# The Peruvian Regulatory Framework



This chapter analyzes the legal framework that governs CSO commercial activities in Peru. It is important to note that although there is no explicit regulation in Peru for CSOs that undertake commercial activities, there are also no legal constraints to this type of activity. Therefore, CSOs are generally permitted to engage in self-financing activities, as will be explained in section 3.2. Although the Civil Code is generally flexible in terms of CSO regulation, it does not establish specific tax legislation that promotes greater tax incentives for CSOs or that awards them this benefit in practice (a specific case is qualification for inclusion in the Registry of Income-Tax-Exempt Entities).

17

## 3.1 General Legal Framework Regulating CSOs

The Civil Code of Peru (1984) regulates nonprofit legal entities and recognizes three types of organizations: associations, foundations and committees.



### 3.1.1. Associations

A civil association is legally defined as “a stable organization of natural persons or legal entities or both, who pursue a nonprofit purpose through a common activity” (Article 80 of the Civil Code).

According to this definition, having a “social interest” or “public-benefit” purpose does not distinguish a civil association, but does enable it to engage in any activity as long as its purpose is not-for-profit.

The legal definition of a civil association includes various types of entities with nonprofit ends: community kitchens, beach or recreation clubs, NGOs, philanthropic entities, alumni associations, trade unions (chambers of commerce, for example), cultural or educational entities, and others.

The Civil Code makes little mention of associations, with just 19 articles (numbers 80-98) regulating them. These articles regulate the unique characteristics of an association: definition; bylaws content requirements; general assembly (minimum scope, notification and quorum, decision-making procedures); specific member-related aspects; objection to board resolutions; and destination of corporate assets.

The constitution of a civil association requires a plurality of members or associates, who may be natural persons, legal entities or both, but there is no legal minimum number of members (two or more).

In order for a CSO to acquire legal entity status — i.e., for it to be a legal entity subject to rights and with assets and responsibilities independent of its members — it must be registered with the Public Registry (article 77 of the Civil Code). Associations are required to have a corporate charter comprised of the declaration of intent of the founding members to form a civil association, the approval of the bylaws, and the designation of

the first board of directors and legal representative. This charter is filed with a notary public, who drafts an abstract of the charter (which can be signed by the member designated in the corporate charter), and is registered with the corresponding public registry based on the domicile indicated by the association.

### 3.1.2. Foundations

The foundation is legally defined as a “nonprofit organization created through the endowment of one or more assets for engaging in religious, aid-based, cultural, or social-interest purposes” (article 99 of the Civil Code).

This classification is less common in Peru, due to its limitations. The founder does not participate in the organization or make decisions regarding basic aspects of the foundation’s institutional life, although he or she may act as administrator. There are no expedited and flexible procedures for decision-making. For example, the Peruvian government, through the Foundation Oversight Council (Consejo de Supervigilancia de Fundaciones), authorizes the disposition and encumbrance procedures for assets that do not pertain to the regular foundation operations, establishes the procedure to follow in each case (article 104, clause 5 of the Civil Code), and approves financial accounts and statements. There are also neither clear nor flexible regulations on the modification of bylaws.

The government — through the Foundation Oversight Council — generally controls and oversees foundations, and as indicated, has the capacity to make decisions that affect their institutional life.

There are two legal procedures for constituting a foundation: 1) by public deed, through corporate charter, granted by one or several natural persons or legal entities, indiscriminately, or 2) by testament, granted by a single person.



According to the Civil Code, a foundation's corporate charter must state its purpose and the asset or assets endowed, which are required elements for its incorporation. The other aspects (name and address, organizational structure, designation of administrators, and other information) may be added by the Foundation Oversight Council if they are not documented in the corporate charter. The corporate charter should be registered with the Public Registry. Foundations are also registered with the administrative registry of the Foundation Oversight Council.

### 3.1.3. Committees

The committee is a nonprofit organization formed for a specific and temporary purpose. It is defined in the Civil Code as an "organization of natural persons or legal entities, or both, dedicated to public fundraising for an altruistic end" (article 111 of the Civil Code).

Its activity involves public collections, aid or charitable activities that can generally be undertaken as part of the social purpose of other types of nonprofit legal entities, such as civil associations.

Since the committee is a temporary organization, the corporate charter and bylaws of this type of organization may be registered with the Public Registry or through a private document with notary certification of the founding members.

### 3.1.4. The Case of NGOs in Peru

Non-governmental organizations deserve a special mention in the Peruvian context.

In Peru, NGOs do not figure as a special type of legal entity. They fall under the category of nonprofit legal entities regulated by the Civil Code, and generally use the classification of civil association.

The denomination and typification of NGOs

comes from an administrative registry that currently falls under the purview of the Peruvian Agency for International Cooperation (Agencia Peruana de Cooperación Internacional, or APCI) within the Department of Foreign Affairs. This is known as the "Registry of National Non-Governmental Development Organizations Receiving International Technical Cooperation" (NGDO), based on the International Technical Cooperation Law (Executive Order No. 719 and its regulations) and the APCI Creation Law (Law No. 27692 partially modified by Law No. 28925). This administrative registry is effective for a two-year term, renewable for equal terms.

The International Technical Cooperation Law defines NGOs that register with the administrative registry in the following way:

"These legal entities are characterized as not-for-profit and for the purpose of carrying out development activities that involve international technical cooperation in one or more of the modes indicated in the Regulation." (Article 73).

Under Law No. 28925<sup>8</sup>, several articles of the APCI Creation Law (Law No. 27692) were modified, its functions were reinforced, and more entities were put under its supervision. This modification also determined the provisions for infractions and penalties regarding the parties supervised by APCI.

Before the enactment of Law No. 28925, the responsibility for registration with the NGDO administrative registry was interpreted as corresponding to those organizations that received international technical cooperation funding through Peruvian government agencies. This was also a prerequisite for qualifying for certain tax benefits derived from the provisions mentioned: refund of the value-added tax (VAT) applied to this type of organization through the acquisition of goods and services by the NGO in Peru; and

<sup>8</sup> Published on December 8, 2006.



VAT exemption on the importation or transfer of goods free of charge, i.e., donations of movable property. With the issuance of Law No. 28925 in December 2006, APCI's jurisdiction was expanded to include entities that receive international cooperation funds without government involvement, but that receive some state benefit, exemption, or privilege and use state resources. The law also includes organizations that establish relationships with a bilateral or multilateral cooperation organism that the Peruvian government belongs to. Law No. 28925 therefore establishes that inscription in the administrative registry of the APCI "is mandatory for engaging in international technical cooperation, irrespective of the juridical nature of the source of aid".

This legal recourse was alleged to be unconstitutional, because it threatened a series of fundamental rights of NGOs: freedom of association, commerce, private life, equality under the law and others. The issue was settled recently by the Constitutional Court of Peru, which found the claim was partially justified. The Constitutional Court ruled that "inscription in the APCI registry does not constitute a mandatory condition for engaging in international technical cooperation" (Conclusion 95 of the ruling). Therefore, inscription in the APCI registry is no longer mandatory for recipients of international technical cooperation that do not wish to acquire the asset-based benefits of the international technical cooperation provisions (such as the VAT refund), unless cooperation funding is received through the state.

### 3.2. CSO Commercial Activities and Nonprofit Status

The Peruvian regulatory framework has no explicit legal definition for the concepts "commercial activities" or "economic activities". As indicated, the regulation of nonprofit legal entities in the Civil Code is very general.

Although Peruvian civil legislation does not con-

tain explicit regulations for CSOs that undertake commercial activities, it does not prohibit them from engaging in these types of activities.

To define the scope of permissible CSO commercial activities, the following basic principles must be considered: 1) the principle of specialization, which regulates all legal entities, and 2) nonprofit status that characterizes CSOs (associations and foundations).

As indicated in Chapter 1, legal entities are governed under the principle of "specialization", according to which:

"The capacity of legal entities extends only as far as the rights and responsibilities necessary for institutional purposes. This rule is known as the principle of specialization. (...) The principle is not strict; however, the capacity defined in terms of **the purposes of the association extends to all legal relationships that directly or indirectly take part in such purposes**" (author's emphasis).<sup>9</sup>

A CSO may engage in any commercial activity that derives directly from its social purpose (e.g., credit-lending activities, sale of products) or activities that indirectly contribute to sustaining or financing the organization specifically for furthering its social purpose (paid consultancies, events and conferences, and other activities). The limitations on certain activities are often hard to define, as indicated in Chapter 1.

According to the legal definitions contained in the Civil Code of Peru (association, foundation, and committee), it is important to distinguish the commercial activities undertaken by CSOs with respect to the nonprofit status that characterizes them.

The nonprofit status in this sense is not defined in terms of the type of activity undertaken (as is

<sup>9</sup> In Arauz Castex, Manuel (1965), *Derecho Civil (Civil Law)*, Buenos Aires, p. 470.



typically the case with a civil association that can engage in any “common activity” in Peru), but rather in the destination or application of a CSO’s income and assets. Therefore, these resources must be used for activities directly related to a CSO’s social purpose throughout its institutional life and/or during the dissolution and settlement process. In the case of associations, the regulations stipulate that “members may not request the reimbursement of their contributions” (article 91 of the Civil Code). Likewise, in the event of dissolution, if the association has net assets, these should be transferred to those people designated in the statute, excluding members (article 98 of the Civil Code).

Through the Registry Tribunal, the Public Registry has indicated the following:

**“What defines an association is not the common activity that the members engage in – which could be any activity – but rather the purpose for which the common activity is undertaken, which must necessarily be nonprofit, i.e., profits must not be distributed among members. What distinguishes associations that conduct economic activities from corporations – characterized as engaging in economic activities as per Article 1 of the General Corporate Law – is the distribution of benefits between members, which is specific to corporations, as per Articles 39 and 40 of this law.”** (author’s emphasis).<sup>10</sup>

Therefore, an association (the most legal status of Peruvian CSOs) does not necessarily have to mention that it may potentially engage in commercial activities in its bylaws when registering with the Public Registry.

A CSO’s engagement in commercial or economic activities does not threaten its nonprofit status provided that the revenue or profit derived from

these activities is destined towards its social purpose or to promote its sustainability in order to guarantee its permanence and therefore fulfillment of its primary social purpose. To this end:

**“The designation of nonprofit status does not prevent the association from engaging in economic activities** provided that the profits from these are not distributed directly or indirectly among the members of the association. **In conclusion, this principle does not conflict with the generation of economic revenues destined for the attainment of the social purpose”** (author’s emphasis).<sup>11</sup>

The organization may undertake commercial activities directly (paid consultation services, conferences, sale of publications) or indirectly through independent corporations. In the latter case, there is no legal limitation for an association or foundation to participate as partner or shareholder in a business corporation (through an increase in capital or purchase of shares), provided that the dividends distributed by this corporation to the partner association or foundation are reinvested in its social purpose. Some CSOs participate as shareholders or partners in business corporations in conjunction with other stakeholders who are “beneficiaries” of the social-purpose projects. In other situations, such as the case of GEA cited in this guide, CSOs have created special enterprises (business corporations) to diversify or professionalize self-financing activities that have served as a link to the national financial and banking system. There have also been cases where CSOs have used their know-how and institutional reputation to create independent consulting companies (as in the case of DESCO and DESCONSULT SAC).

Decision-making regarding engagement in corporate operations or activities varies among the types of CSO legal entities. For associations, this task falls to internal entities (a general assembly,

<sup>10</sup> Resolution No. 024-2001-ORLC/TR.

Amparo).

<sup>11</sup> File No. 1027-2004-Constitutional Protection Action (Acción de



board of directors and the legal representative once such a person has been designated in the bylaws). The state has the authority, through the Foundation Oversight Council, to approve a foundation's decision when commercial activities result in the distribution of assets (for example, participation in the founding of an enterprise that requires a contribution or purchase of shares), or when the activities do not form part of the foundation's regular operations.

Finally, APCI supervises the actions of NGOs in the administrative registry, particularly economic and commercial activities developed from international cooperation funds. This is done to ensure that the funds are applied to "social-interest" projects, especially when the funds are not to be paid back.

### 3.3. Taxes on CSO Commercial Activities in Peru

Taxation on CSO commercial activities in Peru fundamentally applies to income tax and value-added tax (VAT), as explained below.

#### 3.3.1. Income Tax

Income tax in Peru is regulated by the Consolidated Text (Texto Único Ordenado, or TUO) of the Income Tax Law, approved by Executive Decree No. 179-2004-EF and modifications, and their regulation, approved by Executive Decree No. 122-94-EF.

For income tax, there is no general blanket exemption for CSOs. Rather, this is addressed through the establishment of specific purposes determined by law and qualified by the National Superintendency of Tax Administration (Superintendencia Nacional de Administración Tributaria, or SUNAT) when a CSO applies to the corresponding administrative registry.

Income tax exemption has been established for associations and foundations, but not for committees. The law stipulates:

- a. In accordance with Article 18, clause "c" of the Income Tax Law, the following parties are not tax payers:

"Legally established foundations, whose corporate charter exclusively comprises any or several of the following purposes: culture, advanced research, charity, medical or social assistance, and social benefits for company employees. Compliance with these purposes must be accredited through the legal provisions in force on such matters."

- b. Notwithstanding the above, because most CSOs classify themselves as civil associations, the most commonly used article for income tax exemption is Article 19, clause "b", which has undergone numerous modifications over time.

Article 19, clause "b" of the TUO of the Income Tax Law currently establishes tax exemption until December 31, 2008<sup>12</sup> (temporary, but in practice it has been renewed repeatedly), for:

"b) Income from foundations and non profit associations, whose corporate charter exclusively comprises any or several of the following purposes: charity, social assistance, education, culture, science, art, literature, athletics, politics, unions, housing, provided that their profits are destined towards their specific purposes in the country, are not distributed directly or indirectly among members, and whose bylaws establish that in the case of dissolution, assets will be destined towards any of the purposes contemplated in this clause".

<sup>12</sup> Text as it appears in the provision modified under Legislative Decree No. 970, in effect from January 1, 2007.



The bylaw provisions cited in this clause will not be applicable to international technical cooperation organizations and institutions (entidades e instituciones de cooperación técnica internacional, or ENIEX) constituted outside Peru, which should be registered with the Registry of International Technical Cooperation Organizations and Institutions under the Department of Foreign Affairs.”

The Income Tax Law contains no explicit provision regarding taxation for CSOs engaging in commercial activities (specifically for foundations and associations that pursue a social purpose).

Before January 1, 2007<sup>13</sup>, the text of clause “b” of Article 19 read as follows:

“Income from foundations and nonprofit associations, which is used for furtherance of their specific purposes in Peru, whose corporate charter exclusively comprises any or several of the following purposes: charity, social assistance, education, culture, science, art, literature, athletics, politics, unions, housing, provided that it is not distributed directly or indirectly among members, and whose bylaws establish that in the case of dissolution, assets will be destined towards any of the purposes contemplated in this clause.

**Income from business operations of foundations and nonprofit associations, other than the purposes established in the bylaws, will not be exempt from this tax. The Department of Economy and Finance will dictate regulations for classification of the beneficiaries and the corresponding application of this clause”** (author’s emphasis).

However, the Department of Economy and Finance never issued the regulation.

In practice, there are several Tax Court rulings indicating that wherever the associations cited in this clause use their income for their specific social purpose, they will be exempt from income tax payment, even though their income may come from activities other than those contemplated in their bylaws. In conclusion, the determining factor in Peru for income-tax exemption is not the nature or origin of the income generated, but rather its application to the purposes explicitly foreseen in the Income Tax Law, provided that there is no distribution (direct or indirect) among partners or members (nonprofit status). This may be subject to SUNAT inspection.<sup>14</sup>

- c. As can be seen, Article 19, clause “b” of the Income Tax Law defines the social purposes of foundations and associations that are classified as income-tax exempt. In other words, nonprofit status does not necessarily entitle all associations and foundations to this benefit. In addition, income must be destined towards the specified purposes in Peru.

Moreover, SUNAT determines the qualification of an association’s social purpose as scientific, cultural, pertaining to social assistance, or of another nature specified in the Income Tax Law, based on the association’s bylaws when it applies to the corresponding administrative registry.

Based on the current Tax Administration criteria, many environmental associations and others that promote the economic activities of certain groups do not qualify for income-tax exemption because their social purpose is

<sup>13</sup> Based on the partial modification made to the Income Tax Law through Law No. 27386 (in effect from January 1, 2001).

<sup>14</sup> Tax Court Resolution RTF 1253-3-96 (13-08.1996) establishes that **“From this ruling, it can be deduced that the development of such business activities does not constitute the purpose of the association, but rather one of the mechanisms that it may utilize to obtain income in the pursuit of its insti-**

**tutional purposes”**. (Criteria reiterated in RTF 3237-3-2003). There is a more recent Tax Court Resolution, RTF 3237-3-2003, which establishes the following: “A revision of the bylaws of the concurring party indicates that the party may engage in activities whose revenues form part of the assets of the association, activities that it effectively engages in, as can be seen from the copies of the invoices filed in court records. The association’s purpose is the development of trade union activities and **although the concurring**



not specifically identified in the Law. In these cases, there is a very literal application of the Law along these lines. This has resulted, on many occasions, in these entities having been forced to modify or redefine their social purpose in their bylaws in order to qualify for this benefit.

Likewise, the Tax Administration specifically considers the exclusive character of the purpose established in the Income Tax Law. This implies that if the bylaws of a CSO specify social or scientific purposes, included within the exempt group, but also identify others that are not mentioned in this regulation, the Tax Administration considers that it does not meet the exclusivity requirement and is consequently denied the corresponding registration as tax-exempt. As a result, income tax (third-category income) applies to all of the association's income or revenue.<sup>15</sup>

- 24 d. The bylaws must also explicitly anticipate that in the event of dissolution, assets will remain in the country and be used for the purposes contemplated in the regulation. Moreover, there may be no direct or indirect distribution of income among members.

The regulation also encompasses nonprofit entities constituted abroad (such as international cooperation organizations and institutions, or ENIEX, which are recognized in a special ledger for foreign legal entities and a special administrative registry under the auspices of APCI). However, these do not require the specific provision in the bylaws indicating that any remaining asset settlement will be used in the fulfillment of their purposes in Peru. Strictly speaking, these are foreign entities with offices or branches in Peru and do not have a separate legal status from the

parent company. However, they must maintain current their inclusion in the "Registry of International Technical Cooperation Organizations and Institutes" within APCI.

- e. SUNAT holds a special registry of entities which are exempt or exonerated from paying income tax, where those foundations and associations indicated in clause "c" of article 18 and clause "b" of article 19 of the Income Tax Law may register.

The Regulation of the Income Tax Law establishes in Article 8 that this registration "is declarative and does not confer rights". However, although SUNAT defines the legal requirements for tax exemption (definition of social purposes), individual CSOs must apply to the registry in order to avoid the risk of a tax audit determination that they are not exempt and therefore belong to the category of regular income-tax payers.

For inscription in the registry, an association must provide proof of registry of its corporate charter and bylaws in the Public Registry and a foundation must also present proof that it is registered with the Foundation Oversight Council.

The CSOs that are registered with SUNAT must update their registration every time they modify their statutes and attach proof or a single copy of the corresponding instrument, in order for SUNAT to verify compliance with the exemption requirements established in the Income Tax Law.

- f. If associations or foundations do not qualify for income-tax-exempt status, they enter into the general income tax payment category, – third category income (business income) –

---

**party engages in activities that can be characterized as commercial ventures, this does not impair the association from fulfilling its purpose. Therefore, the Tax Administration must determine whether the revenues accrued through the services undertaken by the concurring party have or have not been used for its social purpose"** (author's emphasis).

<sup>15</sup> RTF 3237-3-2003: "(...) in keeping with the provisions of clause b) of Article 19 of the Consolidated Text of the Income Tax Law, approved by Executive Decree No. 054-999-EF, the requirements for income tax exemption stipulate that the nonprofit association must engage exclusively in a purpose or purposes that are indicated in the provisions. If the association does not comply fully with this exclusivity, the totality of its income will be taxed."



with a current rate of 30% of net income.

- g. The income-tax-exemption provisions that apply to certain CSOs do not exonerate them from compliance with the formalities associated with this tax: complete accounting procedures, affidavits, and other formal communications.

Likewise, CSOs should retain income tax from employee salaries (fifth category income) and from payments made to independent consultants or professionals or others not directly under the service of the CSO (fourth category income).

Income-tax exemption is also of vital importance for the Provisional Tax on Net Assets (Impuesto Temporal a los Activos Netos, or ITAN), which is regulated by Law No. 28424<sup>16</sup>.

This tax is applied to the value of net assets indicated on the balance sheet for the period ending on December 31 of each year after deduction of depreciation and write-offs allowed by the Income Tax Law. Third-category income generators are subject to the general income tax structure.

The current rate is 0.5% for net assets exceeding 1 million soles<sup>17</sup> (below this amount the rate is 0%)<sup>18</sup>. The amount effectively paid for ITAN may be used as a credit against regular income tax payments or in the corresponding income-tax payment for the tax period in question, as identified in the regulations.

Associations or foundations that are exempt or exonerated from income tax as per Articles 18, clause “c” and 19, clause “b” of the Income Tax Law are also exempt from paying ITAN.

SUNAT Resolution 067-2007 addressed the issue of formal compliance (presentation of an affidavit) associated with ITAN and determined that this obligation is not applicable to: 1) ITAN taxpayers whose total net assets on December 31, 2006 amounted to less than 1 million soles, without considering deductions cited in Article 5 of the Law; or 2) parties exempted from ITAN based on the provisions of Article 3 of the Law.<sup>19</sup>

### 3.3.2. Value-added Tax (VAT)

Value-added tax is regulated by the TUO of the Value-added Tax and Excise Tax Law, approved by Executive Decree No. 055-99-EF and its modifications, as well as their Regulations approved by Executive Decree No. 29-94-EF and its modifications.<sup>20</sup>

In Peru, among other operations<sup>21</sup>, VAT is applied to the sale of movable property and the use and supply of services provided for a fee.

The current total rate is 19% (17% VAT and 2% Municipal Promotion Tax, or IPM).

The following provisions apply to CSOs:

- a. There is no explicit exemption for commercial activities undertaken by nonprofit organizations. Therefore CSOs that engage in VAT-applicable operations will be considered taxpayers.

The VAT Law generally defines that, among other entities, legal entities that “do not engage in business activities” (such as civil associations or foundations) will be considered taxpayers provided that they “habitually engage in operations included under the scope of tax application” (article 9 of the Consolidated Text

<sup>16</sup> Through article 8 of Law No. 28929, Law of Financial Balance of the Public Sector Budget for the tax year 2007, the effective term of ITAN (created under Law 28424 with its corresponding regulatory and complementary provisions) was extended until December 31, 2007.

<sup>17</sup> Equivalent to about US\$320,000 at an average exchange rate (in 2007) of 3.12 soles to the dollar.

<sup>18</sup> Modification provided by Legislative Decree No. 971, published on December 24, 2006. Previously, the limit was 5 million soles.

<sup>19</sup> Superintendent’s Resolution No. 067-2007/SUNAT (published April 6, 2007 and effective from that date): Approves provisions for the declaration of provisional tax on net assets for fiscal 2007.

<sup>20</sup> Under Executive Decree No. 136-99-EF, Section I of the Regulation of the Value-added Tax and Excise Tax Law was substituted, and has since been subject to partial modification.

<sup>21</sup> VAT is also applied to construction contracts and the initial sale of movable property by contractors.



of the Value-added Tax Law approved by Executive Decree No. 055-99-EF).

The Tax Administration defines a habitual operation based on the nature, characteristics, amount, frequency, volume or regularity of operations, as specified in the VAT Law Regulation. Resale is considered to be habitual.

The VAT Law specifies that “where services are concerned, paid services that are similar to those of a commercial nature will be considered habitual”. This is applicable to many associations that provide consulting, technical assistance or other services as a means of financing and therefore are considered VAT taxpayers, a tax that is passed on to the end-user of this service.

Nevertheless, the VAT transferred to CSOs when they acquire goods and services in the country may be used as a tax credit for VAT payments by CSOs for their taxable operations.

- 26
- b. Some CSOs may not use the VAT for the purchase of goods and services they utilize in Peru as a tax credit because they do not engage in taxable activities. In this case, CSOs may use the VAT and IPM refund mechanism for purchases of goods and services in Peru made possible with funding from foreign donors or non-reimbursable international technical cooperation, per Legislative Decree No. 783<sup>22-23</sup>. These donations are given by foreign governments and institutions or international technical cooperation organisms to the Peruvian government, state entities except state-run companies, or non-profit institutions previously authorized and approved by the Peruvian government.

The regulation defines the following as “previously authorized and approved nonprofit institutions”: ENIEX (cooperation entities constituted overseas), NGOs and private non-

profits, recipients of social assistance and educational donations from abroad (IPRE-DA), who are registered with APCI.

To be applicable for a VAT refund for the purchase of goods and services where this tax applies, CSOs must have previously registered with APCI. Likewise, the regulation requires inscription with the Registry of Income Tax Exempt Entities under SUNAT. These CSOs must also register their projects and operational plans with APCI and comply with other APCI administrative formalities.

- c. In addition to VAT payment, CSOs must comply with the formality of issuing a payment receipt; this obligation is independent of the applicability of VAT to the activity (whether sale of movable property or supply of services). In addition, CSOs must keep special records of VAT sales and purchases and present affidavits.
- d. VAT does not apply to the transfer of used (movable) property by individuals or legal entities who do not engage in business activities, unless these actions are habitual (Article 2, clause “b” of the VAT Law).
- e. Likewise, VAT does not apply to the following operations (Article 2, clause “g” of the VAT Law):
  - e.1. The transfer or importation of goods and the supply of services that are undertaken by educational, public or private institutions for the sole purpose of compliance with their own ends. An Executive Decree countersigned by the Department of Economy and Finance and the Department of Education approves the specific relationship of goods and services where VAT payment is “inapplicable”.
  - e.2. The transfer or import of goods and the supply of services duly authorized by

22 Regulation approved under Executive Decree No. 36-94-EF and its modifications.

23 Under Legislative Decree No. 964, published December 24, 2006, the effective term of Legislative Decree No. 783 was extended until December 31, 2009.



Executive Decree and related to internal purposes undertaken by cultural or athletic institutions cited under clause “c” of Article 18 and clause “b” of Article 19 of the Income Tax Law (foundations and associations that meet determined social purposes), which have been qualified by the National Institute of Culture or the Peruvian Athletic Institute, respectively.

- f. The law makes special note of CSOs and especially NGOs that engage in credit-lending activities as part of their social promotion programs to benefit certain sectors (micro and small enterprise, agro-industry).

VAT generally applies to payment (i.e., interest) derived from credit-lending activities (from a legal standpoint, loans).

However, when these are credit-lending operations undertaken by the country’s banking and financial entities, VAT is not applied to income (commissions, interest) derived from these operations<sup>24</sup>. Without losing their legal status as civil associations, CSOs have also founded commercial corporations under the rubric of EDPYMES (entities for the development of small and micro enterprises) for development of credit-lending activities to micro and small enterprises. These enterprises are eligible for the VAT exemption applicable to national banking and financial system entities overseen by the Superintendency of Banking and Securities (SBS).

### 3.4. Other Administrative Registries or Formalities

As indicated in point 3.3, CSOs in Peru are not exempt from compliance with the formalities associated with income tax and value-added tax

filings, such as: full accounting procedures, special VAT accounting registries and affidavits.

Likewise, CSOs (legally constituted as associations or foundations) must comply with the following basic administrative registries:

- a. Consolidated taxpayers’ registry (Registro Único de Contribuyentes, or RUC) under SUNAT and communication of their legal representative (declaration of change in legal representative).
- b. Authorization of Forms by the Department of Labor and Employment Promotion, which generally apply to all entities which can be defined as employers, i.e., which hire workers directly under the service of a private enterprise and issue the respective paychecks.
- c. Municipal permits for operation from the municipality where the CSO’s offices are located, even though it may operate in an office closed to the public. In this case, the CSO must meet requirements (such as zoning) and follow procedures established for each municipality, based on territorial jurisdiction.

In terms of labor law, as employers CSOs must comply with regulations in terms of employee benefits and withholding: health care payments (ESSALUD), which is 9% of the salary and is paid by the employer, and social security withholding for deposit in the National Social Security System (under the Social Security Standards Office), which is set at a rate of 13%, or in the Private Social Security Fund Administration System (operated by private social security fund administrators at an average rate of 12%).

24 Under Legislative Decree No. 965, published December 24, 2006, a special clause (“clause r”) was added to Article 2 of the VAT Law in terms of non-taxable operations, namely credit services derived from income received by banking and financial enterprises, municipal savings and loan associations, municipal credit associations, EDPYMES, savings and loan cooperatives, and rural savings and loan associations, registered in Peru or abroad, for capital earn-

ings derived from the purchase and sale of bills of exchange, promissory notes, commercial invoices, and other commercial papers, as well as commissions and interest derived from the internal operations.

Previously, this exemption was included among the temporary exemptions cited in Appendix II of the VAT Law: VAT-exempt Services.



### 3.5. Other Sources of Financing

Although this guide primarily refers to the development of commercial or business activities by CSOs, this section identifies the primary legal aspects regarding financing from membership dues and receipt of donations.

#### 3.5.1. Membership Dues

- a. In principle, the Civil Code does not regulate the establishment of membership dues as a legal obligation of association members or as a mandatory means for constituting corporate assets.

As indicated, the Civil Code of Peru establishes a minimum regulation regarding aspects of the institutional life of the association and allows the determination of several issues to be self-regulated (through bylaws or internal regulations), including the establishment of membership dues<sup>25</sup>. The only explicit provision contained in the Civil Code on this matter indicates that “former members, excluded members and descendants of deceased members are required to pay unpaid dues and are not entitled to reimbursement of their contributions” (Article 91 of the Civil Code), derived from the nonprofit status that characterizes a civil association.

Consequently, associations are free to set membership dues and define the entity that is responsible for approving these (this may

be the General Assembly of members or the Board of Directors; if not otherwise stipulated, this decision falls to the General Assembly as the highest-ranking entity).

In practice, membership dues are typical in Peru in trade unions (professional or business associations), loan associations, alumni associations, social or similar clubs. However, charging membership dues is not a common practice (although not prohibited) among NGOs, whose financing primarily comes from international technical cooperation.

- b. In addition, membership dues are not considered by the Tax Administration to be a service and therefore are not VAT-applicable.

In fact, VAT is applied to the provision of services by an individual or an entity to another for a fee. In the case of membership dues, the association is not providing a service to a third party (the member) but rather: 1) the member joins, becoming part of the civil association; 2) payment of membership dues is an economic obligation, established in the bylaws, for the member to contribute to the development and maintenance of the association to which the member belongs.

SUNAT identifies this in its Directive No. 004-95-SUNAT (still in force) upon determining that “Value-added tax is not applicable to income received by nonprofit associations in payment of monthly membership dues”<sup>26</sup>.

5. In addition, the services provided by the association are not itemized for each member, but rather granted collectively based on their corresponding solidarity contributions or payments.

The services mentioned may or may not be used as a whole or in part by members, because their use is subject to member discretion. Therefore, membership dues do not constitute a payment in exchange for services, as established in clause c, Article 3 of Legislative Decree No. 775.

**6. Income obtained by nonprofit associations from monthly membership dues do not imply a payment in exchange for services, but rather fulfillment of member responsibilities for the maintenance and operation of the association; similarly, for the member, this means maintaining**

<sup>25</sup> To this extent, article 82 of the Civil Code establishes the minimum bylaws content. This includes a determination of corporate assets (clause 3), without the need to specify the goods comprising corporate assets or accredit a corporate contribution from members. It is sufficient that the bylaws indicate the general and potential composition of corporate assets (membership dues, donations, income from activities identified within its social purpose and generally derived from any legally permissible means), as well as the rights and responsibilities of members (clause 5).

<sup>26</sup> The SUNAT Directive cites the following arguments: “ (...) membership dues (monthly payments) constitute a common fund for the association that cannot be reimbursed, divided or distributed. In this sense, the perception of membership dues does not involve the concept of sales.



### 3.5.2. Donations

This section addresses tax benefits for donations made by income-tax payers in Peru, as well as donations from overseas.

Regardless of whether donations made, for example, by a local enterprise to a CSO have tax benefits for the donor from a civil standpoint, a legally constituted CSO (registered with the Public Registry, according to the laws of legal entities in Peru) is an autonomous entity and therefore assumes rights and responsibilities. In this sense, it can legally receive donations from third parties through previously established contracts or agreements.

#### 3.5.2.1. Local Donations

This section analyzes the tax structure of income tax and value-added tax on local donations, or those made by entities that receive income under the Peruvian Income Tax Law.

##### a. Income Tax

- a.1. In general, donations are not income tax-deductible for the donor (income-tax payer), except in specific cases that meet criteria and authorizations from the relevant government authorities.
- a.2. Under Law 27804 (which modifies the Income Tax Law, in effect since January 1, 2003)<sup>27</sup>, donations made to nonprofit entities whose social purpose involves one or more of the following are considered (per clause “x”, Article 37) third-category (business) income-tax-deductible expenses: charity, social assistance or public benefit, education, culture, science, art, literature, athletics, health, historical heritage, indigenous cul-

ture, and other similar areas.

The deduction may not exceed 10% of the third-category net profit after compensation for losses.

This benefit can also apply in general to national taxpayers who include the results of various productive sources of Peruvian income, with the exception of third-category income and dividends and any other form of profit distribution. Donations to the aforementioned nonprofit entities of up to 10% of a legal entity’s annual overall net income after compensation for losses may be deducted from its overall net income (article 49, clause “b” of the Income Tax Law).

- a.3. This only applies to donations made to nonprofit entities previously qualified as donation recipients by the Department of Economy and Finance through ministerial resolution.

Ministerial resolution No. 240-2006-EF establishes the necessary requirements for this benefit. To be qualified as a donation recipient by ministerial resolution, a nonprofit entity must have a SUNAT resolution that approves inscription in the Registry of Income Tax Exempt Entities. The benefit thus will apply to associations or foundations that fulfill the purposes specified in the aforementioned Article 18 clause “c” or article 19 clause “b” (see 3.3.1).<sup>28</sup>

The qualification as a donation recipient is effective for three years and can be successively renewed. If approved, the renewal is effective from the moment the ministerial resolution is notified.

**her/his status and therefore her/his exercise of rights within the association”** (author’s emphasis).

<sup>27</sup> Previously, Article 88, clause “d” (which was overruled by Law No. 27804) established a taxpayer credit on income tax for any taxpaying entity that makes donations to educational or cultural institutions, in either case foundations or associations included in

the income-tax-exempt category, or to public educational institutions. The value of this credit was established at the average tax rate of the taxpayer applied to the donated amount, which could not exceed 10% of the taxpayer’s overall net profit or 10% of the third-category income after compensating for losses. To be entitled to this benefit, both donors and recipients had to be registered with the SUNAT special registries.



a.4. The Income Tax Law specifies that the donation can only be deducted if the beneficiaries are previously qualified by the Ministry of Economy and Finance under the aforementioned procedure as donation recipients.

Likewise, donors (income-tax payers) must register with the SUNAT Donors Registry before making any donation. Registration is valid for three years.

a.5. Both donors and donation recipients must present formal statements to SUNAT. Donors must inform SUNAT of the donations they make and recipients must inform SUNAT of the application of funds and goods received, backed by payment receipts.

Likewise, donation beneficiaries must provide receipts for donations received and indicate the name or trade name of the donor, consolidated taxpayers' registry (RUC) number or other identifying document if no RUC is available. It must assign a value and conservation status to the donated goods.

## b. Value-added Tax

b.1. In accordance with clause "a" Article 1, of the VAT Law, the sale of movable property in Peru is subject to taxation.

According to the VAT Law, "sale" is not only defined as transfer of ownership of movable property on a payment basis, but also any cost-free act that transfers ownership of VAT-applicable goods<sup>29</sup> (removal of goods). In this sense, the donation of goods (money is not considered movable property for VAT

purposes) generally constitutes a VAT-applicable sale.

The VAT taxpayer is the entity or enterprise that makes the donation; the taxable basis is set in accordance with the payment operations this entity makes with third parties. In the absence of this, a market-value is applied.

The VAT applied to removal of goods cannot be considered a cost or expense by the company that removes the goods. It may not be deducted as a tax credit or considered a cost or expense by the procurer.

b.2. However, there is a special system in place for the transfer of goods through donations made to public sector entities and private nonprofit institutions registered with APCI.

Based on article 2, clause "k" of the Value-added Tax Law, VAT is not applicable<sup>30</sup> to the "cost-free" transfer of goods made in favor of ENIEX, of national NGOs and nonprofit private institutions receiving donations of a social assistance or educational nature, registered with the corresponding registry, under APCI of the Department of Foreign Affairs, provided that this act is approved by ministerial resolution from the corresponding entity. In the case of ENIEXs, NGOs, and IPREDAs, the ministerial resolution corresponds to the Department of Foreign Affairs.

In addition, the donor does not lose the right to apply for the tax credit corresponding to the donated good.

<sup>28</sup> In addition, Ministerial Resolution No. 240-2006-EF establishes the presentation of the following documents to qualify as a donation recipient: (i) the Consolidated Taxpayers' Registry (RUC); (ii) the SUNAT Resolution of Income-Tax Exemption; (iii) proof of public deed of incorporation and modification of bylaws, where relevant, in which: the social purpose must include one or several of the purposes included in clauses "x" of Article 37 and "b" of Article 49 of the Income Tax Law; and its assets, in the event of dissolution, are to be destined towards purposes equal or similar to those established in the Income Tax Law. The aforementioned dissolution clause

is not applicable to ENIEX; in the case of religious associations, this dissolution clause is applicable provided the bylaws are approved by the respective ecclesiastical authority; (iv) a certified copy of the entry in the registry, emitted within the last three months; (v) an affidavit signed by the nonprofit entity's legal representative declaring that it will not directly or indirectly distribute general income among members and that it will be destined to specific purposes.

<sup>29</sup> Number 3, Article 2 of the Consolidated Text Regulation of the Value-added Tax Law.



Therefore, the donation of movable properties issued in favor of CSOs registered in the APCI administrative registry is not subject to VAT, provided that this is approved by the respective ministerial resolution and follows the procedures established in the corresponding regulation<sup>31</sup>.

### 3.5.2. Donations from Overseas

- a. Based on article 2, clause “k” of the Value-added Tax Law, VAT is also not applicable to the importation of goods donated to entities and departments of the public sector, except businesses; as well as those donated to ENIEX, national NGOs and IPREDAs<sup>32</sup>, included in the corresponding registry, under the jurisdiction of APCI of the Department of Foreign Affairs, provided that this act is approved by ministerial resolution from the corresponding entity.

As previously indicated, in the case of ENIEXs, NGOs, and IPREDAs, the ministerial resolution corresponds to the Department of Foreign Affairs.

- b. Law No. 28905, the law on facilitation of the dispatch of goods donated from overseas, dictated on November 9, 2006, modified article 15 of the Consolidated Text of the General Customs Law (approved by Executive Decree

No. 129-2004-EF) in order to establish the “inapplicability” of payment of customs tariffs to CSOs, as follows:

“Article 15: the following parties are exempt from payment of customs tariffs, based on the requirements and conditions established by the Regulation and other legal provisions that regulate these:

(...)

- e) Donations approved by ministerial resolution from the corresponding entity made to public sector entities with the exception of the businesses that are part of the state’s enterprise activity, as well as international cooperation organizations and institutions - ENIEX, national non-governmental development organizations, NGDO-PERU, and nonprofit private Institutions that receive donations of a social assistance or educational nature - IPREDAs, registered in the corresponding registry, under the care of the Peruvian Agency for International Cooperation – APCI.

(...)

l) Donations made to religious entities and legally established foundations, whose corporate charter exclusively comprises any or several of the following purposes: education, culture, science, public benefit, social or medical assistance.”

31

<sup>30</sup> The current text is taken from the modification made to the Value-added Tax Law under Legislative Decree No. 935, published on October 10, 2003 (entering into effect the day following its publication).

This exemption previously referred only to the Peruvian state, as per the following text:

“k) The importation or transfer of goods free of charge in favor of Entities and Departments of the Public Sector, except businesses, when this is approved by Executive Decree countersigned by the Department of Economic and Finance and the corresponding Sectorial Department. In this case, the donor does not lose the right to apply for tax credit corresponding to the donated good.”

<sup>31</sup> By Executive Decree No. 096-2007-EF (previously known as Executive Decree No. 041-2004-EF), Regulation of Inapplicability of

VAT and Excise Tax to Donations, the following operations are established as exempt:

“The importation of goods transferred free of charge to donation recipients.

(...)  
The transfer of goods transferred free of charge to donation recipients.”

For these purposes, the following donation recipients qualify: ENIEX, national NGDO-PERU, and nonprofit private institutions recipients of donations of a social assistance or educational nature-IPREDA, registered in the corresponding registry under the care of APCI.

<sup>32</sup> Private nonprofit institutions that receive donations of a social assistance or educational nature (IPREDA) are organized as nonprofit legal entities regulated by the Civil Code (association or foundation). Their denomination derives from a special administrative reg-



This Law will enter into effect the day following the publication of the issuance of its regulation.

### 3.6. Expertise Required to Manage Commercial Activities

CSOs generally comprise a heterogeneous group of diverse organizations that have been growing exponentially in Peru. This can be seen clearly in the case of NGOs towards the end of the 1960s and during the 1970s. However, during those decades NGOs developed along narrow lines according to requirements imposed by international technical cooperation.

The 1990s brought the boom of neo-liberalism as the prevailing economic policy under the government of Alberto Fujimori, and this implied the following for CSOs:

“(..) the central government had no coherent concept of the existence or the importance of a third sector in itself, independent from the government and the business sector. On the one hand, there was a climate of relative freedom of association that had predominated in Peru since the return to democracy in 1980 and there was no systematic state interference in private corporate life. But on the other hand, there was no significant recognition of this sector in public discourse, and in practice, the concentration of power and resources in the central government reflected a general distrust of autonomous and private initiatives”.<sup>33</sup>

Although there generally has been and continues to be an important flow of international technical cooperation into Peru, based on APCI

statistics<sup>34</sup>, NGOs considered that international technical cooperation agencies were leaving Peru, in large part motivated by the redirection of resources into higher priority areas, namely Africa, Asia, and Eastern Europe.

As a result of this situation, CSOs – especially NGOs – were forced to find new ways to generate income, and one of these was by engaging in commercial or economic activities. But given the lack of experience on the part of CSOs in managing these commercial activities, a growing demand emerged for technical support in financial, legal (particularly tax-related), accounting and administrative services. Yet, CSOs often lack the economic means to pay for such specialized assistance.

Consequently, making this expertise accessible to CSOs in general – not just NGOs – is very important in order for them to start up, strengthen, and expand their self-financing activities without incurring risks (especially of a tax nature).

The following is a list of institutions – which is illustrative rather than exhaustive – that provide support to CSOs in Peru. While not all of these provide services specifically related to commercial activities, their expertise may be useful to CSOs seeking assistance in this area.

#### **ASHOKA**

Ashoka is a global organization of “social entrepreneurs” with system-changing solutions for the world’s most urgent social problems. It provides professional support and access to a global network of peers in over 60 countries and develops models for collaboration and designs infrastructure needed to advance the field of social entrepreneurship and the citizen sector.

istry under APCI called the “Registry of private nonprofit institutions who receive donations of a social assistance or educational nature from overseas” with a successively renewable two-year duration, and registers nonprofit entities that engage in social assistance or educational activities that benefit disadvantaged populations.

<sup>33</sup> Source: Portocarrero, F; Sanborn, C; Cueva, H and Millán, A.

*Más allá del individualismo: El tercer sector en el Perú* (Beyond Individualism: The Third Sector in Peru), (2002) Universidad del Pacífico Research Center, Lima, pp. 154-155.

<sup>34</sup> “Situación y Tendencias de la Cooperación Internacional en el Perú: Año 2005” (“Situation and Trends in International Cooperation in Peru, 2005”), [www.apci.gob.pe](http://www.apci.gob.pe).

**ASHOKA**

Prolongación San Martín No. 12  
Departamento 602  
Barranco, Lima  
Phone: +51-1-2473322  
Web: [www.ashoka.org](http://www.ashoka.org)

**NATIONAL ASSOCIATION OF CENTERS  
(ASOCIACIÓN NACIONAL DE CENTROS, or  
ANC)**

ANC is a nonprofit civil association made up of non-governmental organizations that promote development and poverty relief in diverse regions of the country. The organization coordinates the efforts of its members and other civil society organizations and strengthens CSO capacities. Among ANC's activities are seminars and training workshops and it also provides legal consulting services such as NGO management support for both members and non-members, consulting on projects and training.

**ANC**

Prolongación Arenales 279  
San Isidro, Lima  
Phone: +51-1-4411063  
Web: [www.anc.org.pe](http://www.anc.org.pe)

**AVINA**

Avina's mission is to contribute to sustainable development in Latin America by encouraging constructive alliances based on trust between social and business leaders and by brokering consensus around agendas for action. To achieve its mission, Avina identifies the best opportunities to form alliances with leaders from civil society and the business sector in shared high-potential initiatives promoting sustainable development.

**AVINA**

Av. Camino Real 1236 Piso 6, San Isidro  
Lima  
Phone: 51-1-2215070, 4406438  
Web: [www.avina.net](http://www.avina.net)

**CAMINANDO JUNTOS**

Caminando Juntos is an association that collects and channels contributions from businesses and employees from the private sector and directs them towards projects that affect the neediest communities in Peru. This institution was created thanks to business efforts to contribute to the development of a better future for low-income communities and to achieve greater national solidarity and equality, facilitating the development of social corporate responsibility for companies and employees.

**CAMINANDO JUNTOS**

Calle Jorge Buckley 192 Oficina 401  
Lima  
Phone: 51-1-2432222  
Web: [www.caminandojuntos.org.pe](http://www.caminandojuntos.org.pe)

**CARE**

CARE is an organization that has been working in Peru since 1970 and whose general purpose is to address the factors that generate poverty. The organization works in association or collaboration with district and provincial municipalities, regional governments, grassroots organizations, ministries, national and international NGOs, universities, private enterprise and communities around the country.

**CARE**

Av. General Santa Cruz 659  
Lima 11  
Phone: 51-1-4317430  
Web: [www.anc.org.pe](http://www.anc.org.pe)

**Nonprofit Enterprise and Self-Sustainability  
Team (NESsT)**

NESsT works to solve critical social problems in emerging market countries by developing and supporting social enterprises that strengthen civil society organizations' financial sustainability and maximize their social impact. NESsT is



dedicated to supporting CSOs in their self-financing and commercial activities. To achieve its mission, NESsT coordinates three initiatives: The NESsT Venture Fund (Fondo Nido), NESsT University and NESsT Consulting.

Through NESsT University, NESsT advances the field of social enterprise through the publication of a “Practitioners Series” of case studies, legal guides and training manuals, as well as a “Learning Series” of books and handbooks on the subject. It also organizes forums, symposia and small “Investor Circles” to inform CSOs, private and public sector representatives on these important topics.

NESsT Consulting offers services to CSOs, donors and international organizations in the areas of social enterprise and venture philanthropy through training workshops, tailored one-on-one consultations and technical assistance, seminar presentations and research and writing.

NESsT  
Calle Mártir Olaya 201, Oficina 602  
Miraflores  
Lima  
Phone: 51-1-4465441  
Web: [www.nesst.org](http://www.nesst.org)

#### **PACT**

PACT is a global alliance of individuals and organizations committed to strengthening local capacities to generate a positive social change. It facilitates access to providers of innovative organizational capacity-building programs and services. The principal goal of PACT is a stronger global civil society composed of effective and sustainable organizations that demonstrate leadership, vision, dedication, organizational and technical skills to better respond to the increasingly complex needs of their communities.

#### **PACT**

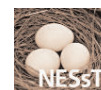
Roca de Vergallo 123  
Edificio Las Begonias Oficina 401  
Magdalena del Mar  
Lima.  
Phone: 51-1-2640505  
Web: [www.pacto.org.pe](http://www.pacto.org.pe)

#### **SAVE THE CHILDREN SWEDEN**

Save the Children Sweden develops its work based on the Convention on the Rights of the Child and encourages the development of social, cultural, and political environments in civil society and government. Through its work and the work of its social organizations, Save the Children Sweden produces and disseminates knowledge as a tool to influence decision-makers. It also promotes public participation for the purpose of fostering important changes in society for children and teens in the region.

#### **SAVE THE CHILDREN SWEDEN**

Calle La Sta. María 120  
Lima  
Phone: 51-1-4229292  
Web: [www.scslat.org](http://www.scslat.org)



## **CASE STUDY: ENVIRONMENTAL ENTERPRISE GROUP (GEA)**

### **1. The Organization**

The Environmental Consultancy Office (Oficina de Asesoría y Consultoría Ambiental - OACA), now known as the Environmental Enterprise Group (GEA), was created in 1992 as a nonprofit organization dedicated to health and environmental activities. Three partners with NGO experience founded this organization after identifying a niche in the environmental sanitation and protection area.

Initially, OACA engaged in activities related to water and sanitation, meeting the demand for services that originated from the historic lack of available infrastructure and supply of water and sanitation services in Peru.

Until 1995, the organization was focused on gaining experience and during this time, the founders identified a growing demand in the market for environmental services. One of the reasons for this was the growth of the mining sector, because a requirement of the state-mandated mining concessions was that they develop environmental impact assessments for their projects. That year, the founding partners decided to create ECOLAB, an enterprise dedicated to providing preparation and assessment services for environmental management plans, and made use of a small laboratory they had implemented at OACA years before. Although currently the founders and board members of GEA and ECOLAB are the same, the organizations are separate legal entities.

In 1998, OACA was incorporated into the Latin American Forum of Environmental Sciences (FLACAM), at which point it diversified its work into three integrated areas: (i) environmental engineering and management; (ii) economic development and communities; (iii) education, participation, and culture.

In 2004, in order to change the image of the organization, the members decided to change the name from OACA to GEA, to better describe its activities and mission.

Today, GEA manages integrated sustainable development programs and has revolutionized conventional government plans that affect sectorial interventions. The organization operates programs in association with or supported by other CSOs, government entities, private businesses, and civil society. Its major programs include:

- Green Valley (Valle Verde, in Lurin and Pachacámac, Lima province): its purpose is the conservation and development of the Lurín river basin and promotion of civil society self-management. This program began in 1998 and is still in operation.
- Revive the Rimac (Revivir el Rímac, in the upper Rimac river basin, Lima province): its mission is local capacity-building for conservation and recuperation of the Rimac river. This program was developed between 2000 and 2003.



- Pro-Chili (upper Chili river basin, Arequipa province): its purpose is the transfer of capacities to leaders and local governments for integrating the Chili river into the Arequipa metropolitan area. This program was developed between 2000 and 2003.
- Good Voice (Buena Voz, metropolitan Lima): its purpose is the formation of young leaders into proactive citizens, developing transformation projects in their communities and neighborhoods. This program began in 2003 and is currently undergoing expansion on a national (Lima, Arequipa) and regional (Brazil) level.
- MUNDOLCA (Colca Valley): the purpose of this program is the diversification of the local economy based on tourism, building capacities and promoting job creation for local inhabitants. This program began in 2007.
- Center for Eco-efficiency and Social Responsibility (Centro de Eco-eficiencia y Responsabilidad Social): this is a program aimed at promoting competitiveness of Peruvian companies through the adoption of cleaner production measures and social responsibility. This program began in 2007.

In terms of financing, GEA considers that it has enough funds to develop its primary activities. However, the institution feels that it can improve financing for other activities and for the future. In 2006, more than 50% of the organization's income came from foreign sources (international cooperation) and 34% from services.

The organization has faced a significant challenge in terms of the availability of funds. The private banking system in Peru generally does not give loans to NGOs because of their lack of "financial credibility". To obtain loans, oftentimes GEA partners have put up personal property in guarantee, increasing the interest rates they must pay.

## 2. Self-financing Activities

Since its founding, GEA has concentrated on the development of self-financing activities. These currently involve two types of activities: 1) provision of services and consultancies related directly to its programs, and 2) the creation of ECOLAB, a legal entity that is economically and administratively independent from GEA, dedicated to providing environmental management services for the private sector. The enterprise, whose founding members are the same as those of GEA, transfers economic resources and business knowledge to GEA, the civil society organization. It also serves as a link between GEA and the private financial system, for example when bidding in public tenders of Peruvian state funds.

The primary motivation for engaging in self-financing activities was the development of the organization's social mission. This required that the organization generate new resources to finance its programs and operational expenses through mission-related services that would enable it to reach a new client base.



### **2.1. Provision of Services and Consultations**

Since its early days, GEA has provided consultation services on sustainable development projects and conducted applied research. It also provides environmental services, including environmental management and planning, cultural and experiential tourism, environmental education, cultural heritage preservation, environmental engineering and sanitation, social and business participation and environmental communication.

The percentage of GEA's overall income that comes from consultations has been progressively increasing. In 2006, it represented 34% of the organization's total budget. The organization has developed expertise in the services it provides and is currently considered one of the best consultants in its area.

Self-financing activities have allowed it to diversify its resources and avoid exclusive dependence on international cooperation, which its board of directors considers a strength.

### **2.2. Start-up of the Enterprise (ECOLAB)**

ECOLAB was created as a private enterprise in 1995 with two objectives. The first was to generate economic resources to support GEA's institutional sustainability, and the second was the technical and scientific development of human resources on environmental issues.

For the founders, the creation of an enterprise independent from the CSO represented the challenge of professionalizing the services the organization offered and developing business skills. They believed that by managing ECOLAB as a business, it would be more efficient and provide a more attractive image to potential clients in the private sector that prefer to retain the services of a business rather than a CSO.

### **2.3. Links Between GEA and ECOLAB**

The services provided by GEA and ECOLAB are different, as are their clients and target markets, so competition between them is not an issue. While GEA primarily develops projects aimed at promoting sustainable development, ECOLAB provides specialized services in environmental monitoring and analysis. GEA's most important clients are international cooperation agencies, ministries, local governments, and enterprise foundations; ECOLAB's principal clients, on the other hand, are in the business sector, specifically in manufacturing, hydrocarbons, mining, and energy. However, the services of the organization and the enterprise are complementary.

A positive effect of this situation is the potential to create synergies between projects. This also enables the founding members in many cases to transfer resources to benefit both organizations.

ECOLAB has also served as a bridge between GEA and the private financial system; it has provided letters of guarantee for GEA when the organization bids on public projects (government tenders) or



takes out “emergency loans”. As mentioned, NGOs in Peru are unable to obtain credit from the private financial system. In addition, ECOLAB transfers its business know-how to GEA, both informally and through its participation in the “Live Green Valley” enterprise (which is still in the start-up process).

Finally, ECOLAB’s leadership has considered investing in the stock market, building up capital assets, and creating a trust fund for GEA to pay for overhead expenses and potentially reduce its administrative costs.

### 3. Legal Aspects

GEA was created in 1992 as a nonprofit civil association and is therefore exempt from paying taxes on the income it receives or produces as a result of the consulting services it provides, as long as this income is used or reinvested in the organization (nonprofit purpose) towards the social purposes that are granted exemption under the Income Tax Law.

GEA’s experience illustrates that Peruvian law allows nonprofit organizations to engage in self-financing activities, provided that these are linked to or further the social mission and that profits and overall income received are not distributed among partners or members, as required by the nonprofit status of a civil association.

Also, under the Peruvian legal framework, there is no limitation or prohibition on the creation of private enterprises (business corporations organized under the legal classifications provided in the General Corporate Law) by partners or members of a nonprofit organization. It is also legally permissible for the association itself to participate as partner or shareholder of the company, provided that the profits transferred to it are reinvested in the CSO.

In this specific case, GEA and its founding partners did not consider it beneficial for the association to be a partner in the company; therefore, the CSO has no formal ties to GEA, apart from common shareholders and some shared directors. As a result, legally ECOLAB profits do not have to be reinvested in GEA. GEA has now launched a second company called Zero Waste (Zero Residuos) for providing integrated industrial waste management services. This situation has generated some questions within the organization regarding the new company and its relationship to the CSO. So far, the idea that the directors have in mind is for Zero Waste to be fully independent from GEA and contribute a percentage of its profits to GEA as part of a social responsibility policy.

### 4. Challenges of Self-financing

The organization faces three important challenges in terms of its self-financing activities:



- 4.1 In terms of consulting services, an important challenge is increasing the quantity and percentage of the contribution of this activity to GEA's overall budget. Consulting services currently contribute 34% of the budget, which is significant but still low compared to the percentage that comes from international cooperation (52%). As a result, the organization continues to search for new and varied forms of self-financing, such as re-launching and restructuring economic activities for the "Live Green Valley" project.
- 4.2. For ECOLAB, the greatest challenge stems from the need to formally guarantee and increase the transfer of resources to the CSO.
- 4.3. The third most important challenge involves the amount of time and energy that GEA and ECOLAB partners must allocate to dealing with business matters rather than focusing on programs.





# Interpreting and Critiquing the Peruvian Legal Framework



## 4.1. Evaluation and Critique of the Legal Framework for CSO Commercial Activities

4.1.1. As discussed in Chapter 3, the general legal framework for CSO regulation and operation is flexible. Although there are no specific legal provisions for regulating CSO economic activities, the development of these types of activity is contemplated and legally permissible, provided that they do not threaten the nonprofit status and are related to or further the social purpose.

A separate case is made for NGOs, which are nonprofit entities that engage in or manage international technical cooperation. As indicated in Chapter 3, in December 2006, Law No. 28925 was enacted, modifying Law No. 27692, the APCI Law. This modification represented an act of unconstitutionality, resolved under Constitutional Court rulings on August 29, 2007. This ruling declared that the claim was partially justified and it interpreted and specified the functions — espe-



cially the control – of APCI over NGOs that operate with international technical cooperation and specified the cases in which inscription in state administrative registries was indeed mandatory.

- 4.1.2. The situation of Peruvian NGOs deserves special mention in relation to self-financing. Many NGOs, especially those with a longer institutional track record – have experience with commercial or self-financing activities. Given the high level of financial dependence of most NGOs on international development assistance, their economic activities have often resulted from specific, long-term programs or projects that reflect the latest trends in international development.

In specific cases (such as DESCO, through its company DESCONSULT SAC), experience and abilities developed in specific areas have been channeled by CSOs to provide services to a variety of clients. This has enabled them to diversify their income base through the creation of independent enterprises separate from the nonprofit organization, which continues to operate its social, mission-related projects.

- 4.1.3. No clear legislation has been established in Peru for promoting CSO self-financing activities. Specifically, no significant tax incentives have been created which would motivate CSOs to develop economic activities. This situation is the result of the general Tax Administration policy over the last few years, which is designed to increase tax collection and eliminate tax exemptions or limit their application.

In this respect, the review of the legal tax framework and its practical application identifies the following problems or broader issues:

- a) Income tax-exemption is limited to the establishment of specific social purposes explicitly indicated in the legislation, which must be carried out exclusively by CSOs. In addition, the Tax Administration (SUNAT) takes a very literal and limited interpretation of social purposes contained in the CSO bylaws, which on occasion results in CSO reformulation of their social purpose to fit within the law.

In practice, it is possible to find entities whose social purpose is “economic activities” (for nonprofit ends) such as technical assistance activities or support in economic production areas for specific local groups. However, they do not qualify under SUNAT as income-tax-exempt entities, although they engage in social interest or promotion activities in favor of determined social groups.

The Income Tax Law does not distinguish among differing origins or sources of CSO income or earnings (i.e., resources derived from commercial activities) for tax-exemption purposes. There was a previous (though somewhat unclear) differentiation regarding exemption of this tax when applied to “income from business operations other than those purposes expressed in the bylaws”. This confusion stemmed from defining the scope of this exemption in cases where income was derived from a business activity, and it was unclear if the activity fell within the purposes described by the organization’s bylaws.

In 2007, the Income Tax Law eliminated the provision indicating that “income from business operations other than the purposes defined in the bylaws” was not eligible for exemption. However, CSOs are still unclear on the limits established for the development of this type of activity, espe-



- cially if such activities are not derived directly from their social purpose, and whether this could result in tax liabilities.
- b) Generally, the application of value-added tax is the same for CSOs and private businesses. The VAT is applied to the sale of movable property and provision of services for a fee by CSOs.

Given the way VAT is structured, its impact on the economic activities of CSOs is less burdensome for several reasons, including: 1) VAT is transferred to the end-user (procurer of the good or user of the service); and 2) VAT that has been transferred to CSOs in the acquisition of goods and services in Peru can be used as a tax credit.

The problems that have arisen for CSOs are related to lack of knowledge regarding VAT application to commercial activities or compliance with formalities (presentation of affidavits and special registries) associated with this tax.

CSOs who do not engage in VAT-applicable activities cannot “unload” the VAT transferred to them through the acquisition of goods and services in the country. These organizations have to turn to the VAT refund through APCI, established under Legislative Decree No. 783 and its regulations. To be eligible for this refund, as indicated in Chapter 3, they must have previously registered with APCI and SUNAT and must present APCI with information on projects and purchases made. In practice, access to this benefit is a lengthy and complicated procedure due to the administrative burden this implies for the CSO. Therefore, many small CSOs or those with limited budgets cannot assume the administrative burden that this process implies.

- c) In general, CSOs are unaware of or unclear on the tax application system, as well as the legislation established for compliance with formal procedures (which is not the same as tax payment or lack thereof), which can also result in significant contingencies (presentation of affidavits, issue of payment receipts irrespective of whether the activity pays VAT). This affects CSO commercial activities, since these organizations often lack information, management capacities, and technical expertise in financial, legal (especially tax-related) and accounting issues.

There is a growing demand for consulting services among CSOs in the taxation, accounting and legal areas which they often cannot obtain given a lack of untied financial resources. This is especially true among NGOs whose main source of financing is international technical cooperation funds for specific projects or programs with a pre-determined time frame.

The CSOs that are able to obtain specialized consulting services tend to be primarily longstanding NGOs or those with institutional financing.

## 4.2. Application of Assessment Criteria

The following sections apply the assessment criteria from Chapter 2 of the Legal Guide to Peru.

### 4.2.1. Simplicity or Complexity of Administration: **Poor**

In Peru, knowledge of and compliance with the tax framework is generally not simple. This is especially true in terms of compliance with procedures associated with tax payment (accounting, completion of tax



forms, tax declarations, and others). One example of this is the application of value-added tax derived from commercial activities undertaken by CSOs. This situation is exacerbated in the case of CSOs that lack specialized technical assistance (such as legal, accounting and tax services).

CSOs do not receive special treatment (except possible exemption from income tax, which does not exonerate them from compliance with the respective procedures), and therefore come under the category of “general tax treatment” for commercial activities. As a consequence, the tax system in Peru in general is complex, making it difficult for CSOs to understand the regulations and apply them correctly.

#### 4.2.2. Effects on Revenue Collection: **Poor (CSO); Good (SUNAT)**

44

The Peruvian Tax Administration is concerned with increasing tax collection and eliminating tax exemptions and special treatment.

In practice, although income-tax regulations establish that the registry of tax-exempt entities is merely declarative, if CSOs do not have the respective exemption resolution, SUNAT considers the payment of this tax to be applicable (third-category tax) and therefore mandatory, particularly for CSOs with a significant movement of income or assets. This issue is especially important in the application of the Provisional Tax on Net Assets (ITAN), which is only waived for CSOs registered with the Registry of Income Tax Exempt Entities. The impact of income tax for CSOs that are not able to register as exempt is significant, because it significantly cuts into profits (30% of net income) from business activities. When considering

that in most cases, these commercial activities are related to a CSO’s social purpose, the applicability of income tax discourages these activities because it makes them difficult to sustain.

In addition, SUNAT verifies compliance with tax payment procedures through tax audits, which in practice represent contingencies for CSOs.

#### 4.2.3. Effects on the Commercial Sector: **Good**

CSOs essentially receive the same regulatory treatment for development of commercial activities, especially in terms of VAT, that for-profit enterprises receive. However, the authors of this guide believe that, in general, the business sector does not perceive the development of CSO commercial activities as “unfair competition”. This is particularly true because CSOs undertake commercial activities within the framework of their social purpose and their nonprofit status.

It is important to understand that CSO engagement in commercial activities in Peru derives from the capacities they have developed in the pursuit of a social mission. They have acquired important know-how in relation to specialized consultation services or sale of information to determined sectors where the business sector generally does not have a presence (human rights, the environment and support for marginalized populations, among others).

This argument is especially applicable to CSOs which are exonerated from income-tax payment due to the specific purposes that they are implementing and not from a more general or blanket tax treatment, and, as previously mentioned, are subject to SUNAT qualification.



#### 4.2.4. Effects on the Development of Civil Society: **Poor**

Although commercial activities are not prohibited in Peru and a CSO's right to implement commercial activities derived from or to further its social purpose is recognized (under the broad definition of association in Article 80 of the Civil Code), the legal framework – especially tax-related – for engaging in this type of activity is not clear, or at least is not perceived as clear by CSOs and is not encouraged under the current tax system.

This problem requires explicit legal regulation, because CSOs are often confused about the legal possibilities and limitations (especially regarding tax law). This is exacerbated by the lack of specialized legal or technical expertise in the area.

Moreover, the lack of necessary experience or capacity-building, access to capital and capacities for initiating commercial activities are conditions that, when added to the belief that income-generating economic activities are prohibited or detract from the social mission or nonprofit status, have very negative consequences for CSO development.

#### 4.2.5. Practical Implementation Issues: **Poor**

The implementation of the tax system for commercial activities and general CSO development of activities is a lengthy and complicated process. There is no consensus on the tax structure for CSO activities, compliance with the respective procedures, or engagement in commercial or self-financing activities, which has tax consequences and therefore negative effects.

### 4.3. Recommendations and Final Reflections

As indicated, in terms of private enterprise, the Civil Code of Peru provides very flexible regulation for civil associations, the legal organizational form most often used by CSOs. However, the minimal regulation that does exist has left areas open to interpretation, and this produces uncertainty in terms of the scope of commercial activities of CSOs, particularly those that do not have access to specialized legal advice.

At the same time, the Peruvian tax framework is difficult to understand and to use for taxpayers in general, and particularly for CSOs. This situation is further exacerbated by a policy pursued by recent governments that seeks to limit tax exemptions.

The situation described below considers specific areas for reforming or improving the legal framework and administrative procedures associated with CSO commercial activities in Peru:

- A. With regard to income tax, the law should broaden the purposes of associations and foundations that are eligible for income-tax exemption (Article 19, clause “b” of the Income Tax Law), in order to incorporate other explicit types of social purposes with a social benefit or that support a social agenda, including: environmental protection, tourism, technical assistance, and local institution-building or similar areas. Its application should also be expanded to “other purposes that contribute to social development in general”, in order to include a wide variety of organizations that undertake important social work, but until now have been left out of



the income-tax-exemption benefit.

The tax legal framework is viewed as a favorable instrument for the promotion of CSO activities through special tax breaks (such as income-tax exemption). In this sense, by issuing tax exemptions to CSOs (and therefore to their activities, including commercial activities that derive from and further their social mission), the state provides a sort of indirect financing through a partial waiver (tax waiver) mechanism of its tax collection expectations. This has important redistribution effects: it contributes to the strengthening of nonprofit organizations that provide social-purpose goods and services in a way that complements the state, or in areas the state does not reach. This benefits a broader group of stakeholders (CSOs, local organizations or beneficiaries of the social programs that CSOs develop and donor agencies), including the government itself.

CSO involvement in economic or commercial activities should be considered a consequence of project development (NGOs) or a means of financing designed to contribute to the organization's social purpose; in other words, the income generated is reinvested in the social mission pursued by the CSO and therefore, these activities should be promoted by the state.

- B. In terms of value-added tax, reform should be directed towards increasing the flexibility of the legal context (regulation) and APCI practices, registries, or requirements established for granting CSOs exemption from VAT applied to the acquisition of goods and services in Peru. The VAT implies a significant cost for CSOs, especially for those that may not use it as a tax credit because they don't operate business activities subject to VAT, but whose social

purpose would benefit from the availability of these additional resources. Likewise, in business activities where CSOs transfer the corresponding 19% VAT for their goods and services to their users or buyers, this also results in a significant cost as the users or buyers are often low-income people.

Beyond the legal interpretation, in light of the absence of an explicit regulation in the Civil Code and the tax framework on the scope and limitation of CSOs engaging in commercial activities, it is important to promote dissemination programs or policies on the legal framework – especially those related to taxation – regarding CSO economic activities and their general operation. Such policies should be directed towards government employees who are responsible for application of the legislation. These policies should also be directed towards the CSOs themselves, as many have difficulty understanding and implementing self-financing economic activities in combination with their programs. Therefore, they require specialized technical assistance and support, which is oftentimes unaffordable.

It is our hope that this guide will make a contribution towards consolidating these efforts in order to strengthen CSO operations and activities in Peru through the development of self-financing activities.