



Update on the Regulatory Treatment of NGO Economic Activities

CROATIA	CZECH REPUBLIC	HUNGARY	ROMANIA	SLOVAKIA
Allow some type of NGO economic activities? (which is the most favorable organization type)				
<p>YES NGOs (CSOs) in Croatia are explicitly permitted to engage in commercial activities, in line with the non-distribution constraint. They are allowed to engage in both mission and non-mission related activities. Associations may undertake commercial activities both within the framework of the existing not-for-profit legal entity or through a separate for-profit commercial company established by the NGO. In principle, an NGO may engage in any activity which has been prescribed by its statute, with the exception of those which have been explicitly prohibited by law. Foundations may engage in economic activities in order to increase the value of property,</p>	<p>YES Generally permitted for all NGOs except foundations and funds, which are prohibited from engaging in economic activities, except receiving income for rent of property, cultural, social, sporting and educational events, as well as lotteries and public collections to raise funds. Public benefit corporations may engage in only those economic activities that serve to render use of property and resources more efficient. None of the above NGOs may be established to pursue economic activities and these may not be its prevailing activities.</p>	<p>YES Foundations and associations are permitted to engage in economic activities. While these forms may not be established primarily to pursue economic activities, a public benefit company may conduct economic activities as its main activity. Therefore, a public benefit company (PBC) form is most favorable for NGOs regularly engaged in entrepreneurial activities. PBCs will not be allowed after July 1, 2009, and the nonprofit company has been introduced as a new form for economic activities. Nonprofit companies can be set up as of July 1, 2007 for new enterprises or for transforming PBCs. The nonprofit co. is regulated by the Company Act, but the profit cannot be distributed among the owners.</p>	<p>YES Generally permitted for all NGO's. NGO's can be directly or indirectly involved in economic activities. Indirect activities are non-mission related commercial activities, for which NGOs have to set up separate commercial companies, Dividends obtained from the activities of these commercial companies, unless reinvested in the same commercial companies, shall only be used for advancing the mission of the association or foundation that set it up.</p>	<p>YES Except for foundations and non-investment funds, which are prohibited from engaging in economic activities. These may, however, operate lotteries or organize cultural, educational, social, or sports events where such activities allow their assets to be used in a more effective manner. Nonprofit organizations providing publicly beneficial services may be engaged in entrepreneurial activities as defined by special laws and under the conditions that such activity will enable better utilization of their property and that the quality, scope and accessibility of their statutory public benefit services will not be adversely affected. Generally, NGOs may not be established with the aim to pursue economic activities.</p>

United States: 4401 Tahama Lane, Turlock, California 95382 - USA • Tel: +1 (209) 988-9604 Fax: +1 (815) 846-1775

Latin America: José Arrieta 89, Providencia, Santiago - CHILE • Tel: +(56 2) 222-5190 Fax: +(56 2) 634 2599

Martir J. Olaya 201 Oficina 602, Lima, PERÚ • Tel: +(51 1) 446 5441

Europe: Kalvin ter 2. 1/2 H. -1053, Budapest - HUNGARY • Tel: +(36 1) 267 0231 Fax: +(36 1) 266 0206

Email: nesst@nesst.org • http://www.nesst.org

CROATIA	CZECH REPUBLIC	HUNGARY	ROMANIA	SLOVAKIA
Allow some type of NGO economic activities?(cont.)				
which may be used only for statutory goals and can perform some other economic activities (e.g. charity fairs, occasional lotteries, printing and selling publications, etc.)		Upon dissolution of the nonprofit co. its assets, with the exception of the owners' won capital, have to be used for public purposes.		
Policy Approach				
Closest to policy approach 2: Destination of Income Rule, combined with threshold of exempt income	Closest to policy approach 2: Destination of Income Rule, combined with threshold of exempt income.	Closest to policy approach 2: Destination of Income Rule, combined with relatedness test and threshold income level.	Closest to policy approach 2: Destination of Income Rule combined with a threshold of total income and entrepreneurial income.	Closest to policy approach 2: Destination of Income Rule, combined with relatedness test and threshold income level.
Non-distribution constraint				
yes	yes	yes	yes	yes
Income tax rate				
Tax rate is 20 %	Tax rate is 31%	Tax rate is 16%.	Tax rate is 16%.	Tax rate is 19%
Exemption of Business Income				
Associations and foundations are generally exempt from Croatian profit tax, including on foreign grants and donations. The tax may be incurred, however, if an organization performs for-profit activity and if exemption from the tax would give the organization an "unjustified privileged position in the market." The law is silent on what constitutes an "unjustified privileged position," so the Tax Administration operates with discretion in this sphere. If an organization is found to have crossed the "unjustified privileged position" threshold, that particular for-profit activity is taxed at the regular business rate of 20%.	There are exemptions for NGOs other than foundations and funds. Profits of less than CZK 300,000 are exempt. NGOs may deduct 30% from their tax base up to CZK 1 million if tax savings are used to cover expenses from or advance tax exempt activities. Passive investment income is generally taxed; however, foundations are exempt on income from foundation property (endowment).	Hungarian NGOs are exempt from paying corporate tax on all income except income derived from unrelated economic activities. Only income from unrelated economic activities is subject to taxation as entrepreneurial. A public benefit organization (PBO) has a tax-free cap at 10% of income from economic activities not to exceed 20 million HUF. A "prominent" public benefit organization has tax free cap at 15% of income without limit on total income. A non-PBO may have income from economic activities up to 10% of its total income or 10 million HUF tax exempt.	NGO commercial activities conducted directly by the CSO – and hence mission-related – are exempt from profit tax up to a certain income threshold. Above this level, the CSO must pay a profit tax of 16% that is the same paid by commercial companies. The income threshold is 15,000 EUR earned from economic activities, in one fiscal year, but not more than 10% of the organization's total tax-exempted income. The fiscal code defines a total of 11 categories of tax-exempt nonprofit income. A number of entities are exempt from paying profit tax altogether. These include Romanian foundations established as a result of legacies; religious denominations on income	Under the new law, the income of NGOs from donations and inheritance is generally not taxable. Further, associations, foundations, NI funds, and NPOs, as well as other NGOs, are generally exempt from taxation on income from statutory activities and tax on inheritance. Associations are expressly exempt from the income tax on income from regular membership fees. The non-statutory economic activities of NGOs are taxed at the general income tax rate of 19%. As of January 1, 2007, an exemption from taxation of income obtained from the sale of NGO property has been abolished.

CROATIA	CZECH REPUBLIC	HUNGARY	ROMANIA	SLOVAKIA
Exemption of Business Income (cont.)				
		Nonprofit companies do not enjoy exemption from profit tax, unless they have obtained public benefit status.	obtained from economic activities that is used for the support of activities with a charitable purpose and accredited and authorized private education institutions on their income.	
VAT				
<p>The general VAT rate is 22%. VAT is required to be paid by entities, including associations and foundations, whose turnover exceeds 85,000 kuna in a given year. However, some specific products and services (including scientific journals, most books and CD-ROMs, milk, bread, and some medicines) are zero rated, while various services related to tourism are subject to a 10% rate.</p> <p>Croatian law provides a few VAT exemptions relevant to NGOs. The import of humanitarian aid is exempt. Humanitarian Organizations as well as amateur sport clubs need not pay VAT for the import of goods given as donations or purchased out of foreign monetary donations, or for deliveries of goods and services paid out of foreign monetary donations. As of May 8, 2004, however, comparable VAT exemptions no longer apply to any other type of organizations, except the above mentioned. Other organizations must now pay the full VAT.</p>	<p>The standard VAT rate is 19%, with a 5% rate applied to some goods and services. NGOs are not exempt from VAT on supplies relating to their statutory purposes. Instead, VAT exemptions are limited to the following: income from rent, educational services provided by accredited universities and accredited vocational training facilities, health services provided by accredited hospitals, medical care professionals, and institutions, and goods related to these services, and social services provided according to special regulation by state or charitable private organizations. VAT must be paid by anyone whose turnover exceeds 1 million CZK (about EUR 35,000) within a fiscal year.</p>	<p>VAT rates are 5% (exceptional rate) and 20% (usual rate). Taxpayers whose annual income from economic activity is less than 4,000,000 HUF may elect tax-exempt status at the outset of the tax year. In addition, NGOs that do not pay any remuneration to individuals during the tax year may request VAT exempt status from the tax authorities. Some services often provided by NGOs, such as social care and health services, accredited adult education, hostels and dormitories, as well as member services and community organizing services are VAT exempt.</p>	<p>The basic VAT rate in Romania is 19%. A lower rate, 9%, applies to books, medicines, and certain other goods and services. Entities can be exempted from paying VAT if their economic activities generate a turnover of less than 35,000 EUR in a given fiscal year. Turnover does not include revenues from not-for-profit activities (e.g. grants and member contributions). There are exemptions on "operations of public interest," on which VAT is paid on the purchase of good and services but not charged on the delivery of these operations of public interest. The exempt operations are listed in the Fiscal Code, e.g. goods and services of social character; services related to children and youth protection; authorized providers of vocational training; services only provided for members (i.e., membership fees are exempt); sports services; services related to fundraising; productions and distribution of motion pictures,</p>	<p>The VAT rate is 19%. Legal entities not established to conduct business do not register as VAT payers as long as their revenue does not exceed 750,000 SKK in three calendar months. NGOs are required to register as VAT taxpayers if their gross turnover is over SKK 750,000 in three calendar months. Activities exempted from VAT include education, training, scientific, health care, and social care services.</p>

CROATIA	CZECH REPUBLIC	HUNGARY	ROMANIA	SLOVAKIA
VAT (cont.)				
			TV and radio programs; publishing activities; sales of religious materials and objects; and certain imports.	
COMMENTS				
<p>Associations are required to pay a symbolic registration fee upon submission of their applications.</p> <p>Croatian laws do not distinguish between NGOs, as the concept of public benefit is non-existent. At the same time, it does provide more fiscal benefits to organizations involved in certain fields of activities. There is an ongoing debate and several proposals are on the table, presenting a more comprehensive approach to the issue.</p>	<p>All types of activities which generate income in excess of related expenses, regardless of whether they are related to the organization's main purpose, must be accounted for and reported separately.</p> <p>Foundations, funds and public benefit corporations are exempt from any fees connected with registration (incorporation) deeds.</p>	<p>A "public benefit organization" may be a foundation, association, public law foundation, public law association, or public benefit company, and must pursue a public benefit activity listed in the law. A "prominently public benefit organization," which is entitled to the highest level of tax benefits, must in addition undertake duties that are ordinarily considered state or local government duties. Profits from Public Benefit Organization may not be distributed and must be spent only on activities defined by the organization's funding document. Foundations and public benefit corporations are exempt from any fees connected with registration (incorporation) deeds.</p>	<p>Foundations, and public benefit corporations are exempt from any fees connected with registration (incorporation) deeds.</p> <p>Various debates are under way about the treatment of commercial activities as they relate to public benefit organizations. With a few exceptions concerning tax exemptions on revenues from advertisements, on certain imported products, and on fees for vehicles, public benefit organizations do not enjoy fiscal exemptions. The current debate relates to whether public benefit status should grant additional fiscal exemptions, including for commercial activities</p>	<p>A related business activity is one that is not defined in the organization's statutes as its primary purpose, but is necessary to ensure that the organizations' statutory activities are carried out.</p>
ORGANIZATIONAL FORMS				
<p><u>Associations</u></p> <p>- Law on Associations, NN 88/01 (Zakon o udruinama)</p> <p><u>Foundations and Funds</u></p> <p>- Law on Foundations, NN 36/95 (Zakon o zakladama i fondacijama)</p>	<p><u>Associations</u></p> <p>- The Citizens Associations Act, No. 83/1990 (Zákon o sdružování občanů)</p> <p><u>Public Benefit Organisations</u></p> <p>- The Public Benefit; Corporations Act, No. 248/1995; (Zákon o obecně prospěšných společnostech a o změně a doplnění některých zákonů)</p>	<p><u>Association</u></p> <p>- Law on Association Act II of 1989</p> <p><u>Foundation and Public Benefit Company</u></p> <p>- Civil Code Act IV of 1959</p> <p><u>Nonprofit company</u></p> <p>- Company Act IV of 2006</p>	<p>Government Ordinance 26/2000 as amended by Ordinance 37/2003 regulating:</p> <p>- <u>Associations</u></p> <p>- <u>Foundations</u></p> <p>- <u>Federations</u></p>	<p><u>Service providing Nonprofit Organisations</u></p> <p>- The Law on Non-Profit Organizations Providing Generally Beneficial Services, No. 213/1997 (Amended by Law No. 35/2002); (Zákon o neziskových organizaciach poskytujících veřejnoprospešné služby)</p>

CROATIA	CZECH REPUBLIC	HUNGARY	ROMANIA	SLOVAKIA
ORGANIZATIONAL FORMS (cont.)				
	<u>Foundations</u> - Foundations and Endowment Funds Act, No. 227/1997; (Zákon o nadacích a nadačních fondcích)			<u>Civil Association</u> (Občianske združenie) - The Citizens Association Act, No. 83/1990; (Zákon o združovaní občanov) <u>Foundations</u> - The Law on Foundations and the Change of the Civil Code as Amended by Later Acts, No. 34/2002 (Replaced the Law on Foundation; (Zákon o nadáciach) <u>Non-Investment Funds</u> - The Law on the Non-Investment Funds and on Changing and Amending Law No.147/1997 (Zákon o neinvestičných fondoch)

Applicable law

CROATIA

The Law on Social Organizations and Associations of Citizens, NN 7/82, 5/85, 47/89 and 2/90.
 The Law on Associations, NN 88/01
 The Law on Institutions, NN 76/93 and 29/97
 The Law on Foundations and Funds, NN 36/95 and 64/2001
 The General Tax Law, NN 127/00
 The Law on Value Added Tax, NN 47/95, 104/98, 105/99, 54/00 and 73/00
 The Regulation on the Amendment of the Regulation on Value Added Tax, NN 55/04
 The Law on Accounting, NN 90/92
 The Regulation on Bookkeeping and Accounts for Non-profit Organizations, NN 20/94
 The Law on Commercial Companies, NN 111/93, 34/99, 52/00, 118/2003

CZECH REPUBLIC

Foundations and Endowment Funds Act, No. 227/1997 (last amendment 257/2004);
 The Citizens Associations Act, No. 83/1990 (last amendment 342/2006);
 The Public Benefit Corporations Act, No. 248/1995 (last amendment 437/2003);
 The Income Taxes Act, No. 586/1992 (last amendment 57/2006);
 The Accounting Act, No. 593/1991 (last amendment 81/2006);
 The Civil Code, No. 40/1964 (last amendment 115/2006);
 The Law on Public Collections, No. 117/2001;

The Inheritance Tax, Gift Tax, and Real estate Transfer Tax Act, No. 357/1992 (last amendment 342/2005);
The Public Procurement Act, No. 199/1994 (last amendment 413/2005)
The Public Support Act, No. 215/2004;
The Value Added Tax Act, No. 235/2004 (last amendment 545/2005);
The Excise Duty Tax Act, No. 353/2003 (last amendment 545/2005);
The Social Services Act, No. 108/2006 (effect from 1 Jan 2007);

HUNGARY

The Act CXLIV of 1997 – on Public Benefit Organizations
The Law on Association Act II of 1989
The Act IV of 1959 (as amended in 1993) Civil Code
The Government Decree 114/1992. (VII. 23.)- on the Order of Financial Management of CSOs
The Act IV of 2006 on Companies

ROMANIA

The Government Ordinance 26/2000, Government Ordinance part about "public benefit status" 37/2003
The Government Ordinance 68/2003 (accreditation for providers of social services)
The Law on Profit Tax 414/2002 Government Decision 859/2002 approving the instructions regarding the methodology for calculation of profits tax
The Law on Sponsorship No. 32/1994 (amended 1998 and Emergency Ordinance No.127/1999)
The Tax Code 22/12/2003 (Law No. 571/2003) and Tax Procedure Code (Government Ordinance 92/2003)
The Government Decree 115/1992 (VII. 23.)- On the Order of Financial Management of Foundations
The Act LXXXI./1996. about corporate income tax and capital return tax (7-9.§, 13§, 20§)
The Act CXXVI of 1996, on the Use of a Specified Portion of Personal Income Tax According to the Designation of the Taxpayer (as amended in 1997, 2001)

SLOVAKIA

The Citizens Association Act, No. 83/1990 (amended by No. 300/1990, 513/1991 and 62/1993);
The Law on Non-Profit Organizations Providing Generally Beneficial Services, No. 213/1997 (Amended by Law No. 35/2002)
The Law on Conditions and of Transformation of Certain Budgetary Organizations and Subsidiary Organizations into Non-Profit Organizations Providing Generally Beneficial Services, No. 13/2002 (Amended by No. 429/2003);
The Law on Foundations and the Change of the Civil Code as Amended by Later Acts, No. 34/2002 (Replaced the Law on Foundations, No. 207/1996 as amended);
The Law on the Non-Investment Funds and on Changing and Amending Law No.147/1997
The Law on Income Tax, No. 595/2003 (last amendment No. 660/2005);
The Value Added Tax Act, No.222/2004 (last amended by No. 523/2005);
The Public Procurement Tax, No. 25/2006 (replacing Act No. 523/2003);
The Real Estate Tax, No. 91/2004;
The Law on the Inheritance Tax, Gift Tax, and Tax on Conveyance and Transfer of Real Property, No. 318/1992 was cancelled from 1 January 2004 and from 1 January 2005 only Law on Income Tax (or Value Added Tax) applies;

Acknowledgements: *We thank the Budapest team of ICNL for their review of and input in to this summary update.*

Resources

Survey of Tax Laws: Affecting Non-Governmental Organizations in Central and Eastern Europe – ICNL, 2003
The Legal and Regulatory Framework for CSO Self-Financing in Croatia – NESsT, 2006
The Legal and Regulatory Framework for CSO Self-Financing in Romania – NESsT, 2007