

**SURVEY OF TAX LAWS AFFECTING NGOS IN CENTRAL  
AND EASTERN EUROPE**

Copyright © 2002 International Center for Not-for-Profit Law – ICNL  
All rights reserved

*Publisher*

International Center for Not-for-Profit Law  
733 15<sup>th</sup> Street, NW Suite 420  
Washington DC 20005 USA

*For the publisher*

Please contact CATHERINE SHEA

*Design and layout*

MIRKO BANJEGLAV

ISBN 0-9717651-0-3

*Printed by*

TISKARA ŽUPAC, Zagreb, Croatia

This publication was made possible through funding provided by the Office of Democracy and Governance Bureau for Europe and Eurasia, U. S. Agency for International Development, under the terms of Award No. EDG-A-00-01-00002-00. The opinions expressed herein are those of the author(s) and do not necessarily reflect the views of the U.S. Agency for International Development.

---

---

# **SURVEY OF TAX LAWS**

AFFECTING NON-GOVERNMENTAL  
ORGANIZATIONS IN CENTRAL AND  
EASTERN EUROPE

---

---



International Center for Not-for-Profit Law



# TABLE OF CONTENTS

---

I.	INTRODUCTION .....	7
II.	ANALYSIS OF TAX LAWS AFFECTING NGOS IN CENTRAL AND EASTERN EUROPEAN COUNTRIES .....	11
	A. Income or Profits Tax Exemptions .....	12
	1. Organizations Entitled to Seek Income or Profits Tax Exemptions .....	12
	2. Sources of Income Exempt from Tax .....	17
	a. Income from Grants, Donations, and Membership Dues .....	17
	b. Income from Economic Activities .....	17
	c. Investment Income .....	25
	3. Treatment of NGOs under Estonia’s New Integrated Tax System .....	29
	B. Exemption from Other Taxes .....	31
	1. Real Estate (Including Land Use and Building Taxes) .....	31
	2. Gift and Inheritance Taxes .....	33
	3. Value Added Taxes (VAT) .....	34
	C. Availability of Tax Benefits to Donors for Contributions to NGOs .....	37
	1. Benefits for Business Donors .....	37
	2. Benefits for Individual Donors .....	39
	3. Hungary and Slovakia – “1% Laws” .....	40
III.	ANALYSIS OF AREAS FOR TAX LAW REFORM .....	41
IV.	CONCLUSION .....	47
	BIBLIOGRAPHY .....	48
	EXHIBITS .....	51



# I. INTRODUCTION

---

This paper surveys current tax laws governing non-governmental organizations (“NGOs”) in fourteen countries in Central and Eastern Europe.<sup>1</sup> The fourteen countries are: Albania, Bosnia & Herzegovina,<sup>2</sup> Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Lithuania, Latvia, Macedonia, Poland, Romania, Slovakia, and Yugoslavia.<sup>3</sup> The paper is based on responses to a survey questionnaire regarding tax laws and regulations pertaining to NGOs provided by experienced attorneys in each of the subject countries. The survey questionnaire, a copy of which is attached as Exhibit A, asks for information about the laws on income or profits taxes for NGOs; exemptions from such taxes available to NGOs; the treatment of income from business and investment activities; the application of, and exemption from, other taxes, such as real estate, gift and inheritance, and value-added taxes; and the availability of tax credits or deductions to individuals and businesses that donate to NGOs. The relevant provisions of the laws of the fourteen countries are summarized in charts appended as Exhibits B – G. Summaries of the survey questionnaire responses are attached as Exhibit H.

The survey has two purposes. The first is informational; the survey compiles information regarding the tax laws applicable to NGOs as they

---

1 ICNL would like to thank the following persons for contributing their expertise about the laws of the surveyed countries: Naim Isufi (Albania); Marieta Vaso (Albania); Goran Bubic (Bosnia & Herzegovina); Esmir Krunic (Bosnia & Herzegovina); Damir Sokolovic (Bosnia & Herzegovina); Hrvoje Arbutina (Croatia); Petr Pajas (Czech Republic); Lemmi Oro (Estonia); Istvan Csoka (Hungary); Ugis Amons (Latvia); Diane Juzaitis (Lithuania); Natasa Gaber (Macedonia); Pawel Mazurkiewicz (Poland); Florin Vasiliu (Romania); and Peter Handiak (Slovakia). ICNL staff members Radost Toftisova (Bulgaria) and Dragan Golubovic (Yugoslavia), and fellows Monika Kopcheva (Bulgaria) and Vesna Pendovska (Macedonia) also contributed country expertise, and interns Jeremy Springhart, Katerina Hadzi-Miceva, and Shannon Eskow assisted in the compilation of the survey results and preparation of exhibits.

Every effort has been made to ensure that the information in this paper is current. Nonetheless, the paper may not reflect changes in the laws that have occurred since the receipt of the survey responses.

2 The Republic of Bosnia & Herzegovina is made up of two entities under the Dayton Agreement, the Federation of Bosnia & Herzegovina and the Republic of Srpska. This paper will refer to Bosnia & Herzegovina where the laws of the two entities are essentially the same. Where the laws diverge in their treatment of an issue, the laws of the Federation and of the Republic of Srpska will be discussed separately.

3 Similarly, the Federal Republic of Yugoslavia consists of Serbia and Montenegro. This paper will refer to Yugoslavia where the laws of the two entities are in accord, and will

currently exist. The second is analytical. This paper seeks to identify those areas in which reform of the tax laws in the region would help to bring those laws into conformity with international good practice, thereby improving the enabling environment for NGOs and enhancing their ability to sustain themselves financially.

Tax preferences are generally considered necessary to create a strong enabling environment for NGOs.<sup>4</sup> They do so by allowing NGOs to have a reduced tax burden through tax exemptions. In most countries with developed NGO sectors, the law provides for exemptions from income and profits taxes ordinarily imposed on legal entities to a broad range of not-for-profit organizations, including “public benefit” organizations as well as “mutual benefit” (or “member benefit”) organizations.<sup>5</sup> A “public benefit” organization by definition benefits the public or some segment of it, while a “mutual benefit” organization benefits only its members. Most countries with developed NGO sectors extend the exemption to many sources of income so as to encourage NGOs to develop a diversified funding base. Thus, not only are contributions, grants, and member dues free from tax, but under certain conditions, income from economic activities is as well. In addition, NGOs, and particularly public benefit NGOs, which are regarded as entitled to greater tax benefits, may receive exemptions from other taxes.

---

discuss the laws of Serbia and Montenegro separately only where those entities differ in their treatment of a particular issue. The FRY also includes the Serbian province of Kosovo, which since 1999 has been governed by the United Nations Interim Administration Mission in Kosovo (“UNMIK”). UNMIK may issue regulations in the performance of its duties. UNMIK Regulation 1999/1, §3 (25 July 1999.) UNMIK has adopted a regulation and administrative direction that govern the establishment and operation of NGOs in Kosovo, pursuant to which all NGOs may engage in economic activities to support their not-for-profit purposes and public benefit NGOs are entitled to seek exemption from taxes, which currently include the presumptive tax, sales and excise taxes, VAT, and customs duties. Because a comprehensive tax system has not yet been developed, and many of the issues considered here are simply not applicable, this survey will not address Kosovo.

- 4 For a more extensive discussion of international good practice in the granting of tax benefits, and the role of such benefits in improving the enabling environment for NGOs, see International Center for Not-for-Profit Law, “Tax Preferences for Nongovernmental Organizations” ICNL website, [www.icnl.org](http://www.icnl.org) (1999, 2000) [hereinafter “Tax Preferences”]; The World Bank, *Handbook on Good Practices for Laws Relating to Non-governmental Organizations (Revised Discussion Draft)* (Washington, D.C.: September 2000), pp. 98-109 [hereinafter “World Bank Handbook”].
- 5 In the United States, for example, the tax code provides exemptions for 25 categories of organizations ranging from health, educational, scientific, charitable, and other traditional public benefit organizations to unions, trade associations, and other member benefit type organizations. See 26 U.S.C. §501(c). Germany also has a long list of ex-

The tax system also can create the mechanisms through which organizations can gain access to various forms of support by providing tax benefits to donors in the form of, *e.g.*, a deduction from income subject to tax for contributions to NGOs.<sup>6</sup> The granting of tax benefits to donors is generally restricted to those who contribute to public benefit NGOs.

The survey reveals that most countries in the region have made progress towards modernizing their tax laws and creating a fiscal enabling environment for NGOs. Most of the countries, for example, have laws granting tax exemptions to certain NGOs for at least some sources of income. In addition, most have extended tax benefits, usually deductions, to individuals and businesses that donate to certain types of NGOs.

Moreover, several countries have developed innovative practices that can serve as models for the rest of the region, as well as for countries outside of Central and Eastern Europe.

■ Hungary, for example, enacted a law in 1996 which permits taxpayers to direct that 1 percent of their taxes be paid to NGOs designated by them (hereinafter referred to as a “tax designation law”). By providing a simple mechanism for directing tax funds to NGOs, the “1% Law” creates a significant pool of resources — \$9 million in its first year — to support socially beneficial activities. Slovakia recently enacted a similar law, effective January 1, 2002, and Lithuania has under consideration a draft law that would permit a 2 percent designation.

■ The Czech Republic has enacted legislation permitting the establishment of endowment funds, and granting tax benefits to earnings on the invested funds. The existing restrictions on investment and the administrative burdens connected with registering the endowment limit flexibility in the management of the funds. Nevertheless, the law creates the ground rules for the development of invested endowments as a means of financing NGO activities.

There are a number of areas, however, in which reform of the existing tax laws in the region is necessary in order to ensure the continuing financial sustainability of NGOs. This paper will first discuss the tax laws

---

6 Tax benefits to donors are ordinarily provided in the form of either a deduction or credit for the donor. Deductions reduce the amount of income subject to tax, and are the more common form of benefit granted. Credits reduce the amount of tax owed and are used less frequently. In Central and Eastern Europe, only Hungary provides for tax credits, and there, only for donations by individuals. A third form of tax incentive for giving is found in the United Kingdom but not in the region. Under this system, the tax saved by the donor as a result of the gift is paid directly to the organization that receives the donation. For example, if the donor makes a donation of £100, producing a tax saving of £10, the £10 is paid by the Treasury directly to the charity.

affecting NGOs in the countries of the region. It will then analyze those areas in which reform is most necessary if these countries are to provide a strong fiscal enabling environment for the NGO sector.

## II. ANALYSIS OF EXISTING TAX LAWS AFFECTING NGOS IN CENTRAL AND EASTERN EUROPEAN COUNTRIES

---

Tax laws in thirteen of the fourteen countries studied in this survey all grant certain types of organizations the ability to seek exemption from the income or profits taxes imposed on legal entities. The fourteenth country, Estonia, has a new income tax system. Under the new tax law in Estonia, legal entities, including NGOs, no longer pay tax on their profits.<sup>7</sup> Instead, they pay tax on certain categories of distributions that they make. The way in which NGOs are treated under this new tax regime is dealt with separately at the end of this section.

The legal requirements for exemptions from income or profits taxes in the other thirteen countries address two categories of issues:

1. *The types of organizations permitted to seek tax exemptions.* In establishing the legal requirements for tax-exempt status, some countries extend the exemption to virtually all types of organizations (*i.e.*, foundations, associations, and other types of not-for-profit legal entities)<sup>8</sup> provided that they are duly registered and that they adhere to the nondistribution constraint.<sup>9</sup> Other countries limit the availability of the exemption to organizations that serve the public benefit. Others grant exemptions for only very limited sources of NGO income, such as contributions, grants and dues, without distinguishing among different types of organizations.

---

7 The law was enacted December 15, 1999, and became effective January 1, 2000.

8 The two most common organizational forms used to establish NGOs in the region are the foundation and the association, although several countries authorize other forms, including Albania (center), Hungary (public benefit company, civil society organization), the Czech Republic (fund, public benefit company), Slovakia (non-investment fund, nonprofit organization providing generally beneficial services), and Lithuania (public institution).

9 The nondistribution constraint prohibits an NGO from distributing its profits as such and requires that its assets, earnings, and profits be used to support the organizations purposes, and not to provide special benefits to the NGOs founders, directors, officers, employees and others associated with the NGO. Thus, all profits must be retained to support the NGO's operations. This feature distinguishes NGOs from for-profit businesses.

2. *The sources of tax-exempt income.* Most countries in the region treat income from grants, donations, fees and dues as tax-exempt. Other sources of income, such as income from economic activities (*e.g.* sales of goods or services), and income from passive investments (*e.g.*, dividends, interest, rents), may be considered tax-exempt only where they meet a variety of conditions.

In addition to income and profits taxes, countries impose a variety of other taxes on legal entities, such as real estate taxes and value added taxes (VAT), among others. Within Central and Eastern Europe, practices with respect to exempting NGOs from these other taxes vary widely among the countries.

A summary of the tax laws pertaining to these issues is provided below.

## A. **INCOME OR PROFITS TAX EXEMPTIONS**

### 1. **Organizations Entitled to Seek Income or Profits Tax Exemptions**

All countries in the region permit at least some types of NGOs to claim exemptions from income or profits taxes generally imposed upon legal entities for at least some types of income.<sup>10</sup>

*Public benefit and mutual benefit organizations exempt.* Those countries with the broadest exemptions – Croatia, the Czech Republic, Hungary, Latvia, Slovakia, and Yugoslavia, as well as the Federation of Bosnia and Herzegovina – allow many types of NGOs, both public benefit or mutual benefit, to claim profits or income tax exemptions for certain types of income. These laws are in accord with international good practice, which encourages exemptions for associations, such as clubs and societies, which benefit only their members as well as for organizations that serve the public interest, such as traditional charities or social assistance organizations.

In some countries, the law reflects a rationale that NGOs, as non-business entities, are not proper subjects of taxation, at least with respect to certain types of income.<sup>11</sup> For example, in Slovakia, the law provides that

---

10 The laws of the countries surveyed regarding the types of organizations entitled to claim exemptions from tax are summarized in Exhibit B.

11 See Tax Preferences, *supra*, note 4.

foundations and associations are not established for a business purpose and as such are not subject to tax on income from grants and membership dues.<sup>12</sup> In Latvia, not-for-profit organizations and public organizations that do not carry out business activities are not subject to the business income tax.<sup>13</sup> In the Federation of Bosnia and Herzegovina, NGOs are not subject to corporate income tax.

More frequently, the laws treat NGOs as taxable legal entities, but permit them to claim exemption from the corporate income or profits tax. In the Czech Republic, for example, the Corporate Income Tax law provides that all organizations established to perform not-for-profit activities are entitled to either exemption from or reduction in tax, depending on the source of the income.<sup>14</sup> The law contains a long list of types of legal entities entitled to tax benefits, including citizens' associations, funds, foundations, public benefit corporations, churches and religious societies, and public higher educational institutions. These benefits are available provided that the revenues are used to advance the organization's statutory activities. In Croatia, religious communities, political parties, trade unions, chambers, associations, trusts, and foundations organized for charitable, humanitarian, scientific, cultural, or similar purposes, as well as other not-for-profit organizations and institutions not specifically named, are entitled to claim tax exemptions. In Yugoslavia, associations, legacies, foundations, religious, and sports organizations are all entitled to exemption from the corporate tax.

In Hungary, the Corporate Income Tax law applies to the "business activities" of all legal entities, including public benefit organizations, "prominently" public benefit organizations,<sup>15</sup> public benefit corporations, foun-

---

12 Act on Income Taxes, No. 366/1999.

13 The exemption also applies to private pension funds, which are NGOs in the broad sense of the term, but are not the subject of this paper.

14 The Czech Republic exempts income from some sources, and taxes income from economic activities under a tax reduction scheme. The Czech rules relating to the taxation of income by its source, including the tax reduction scheme, are explained *infra* § II.A.2.

15 Hungarian law provides for two categories of public benefit organizations and grants them different levels of benefits. Both categories are entitled to greater tax benefits than NGOs that do not qualify as public benefit organizations. 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. It may pursue economic activities only to realize its public benefit purposes. See *infra* § II.A.2. A "prominently public benefit organization," which is entitled to greater benefits, must in addition undertake duties that are ordinarily considered state or local government duties. Hungarian law also provides for public benefit corporations, which can have both business and public benefit activities, but cannot distribute profits.

dations, public foundations, civil society organizations, churches, and others. Business income below an established threshold is exempt from tax. (See § II.A.2, *infra*). Certain types of activities by foundations, public foundations, civil society organizations, and public chambers are not defined as “business activities,” including an organization’s public benefit activity and any support, allowances, and fees received in connection with it, and the sale of assets or inventories serving solely the organization’s public benefit activity. The concept of public benefit is nonetheless significant in the taxation of NGOs, because the level of tax benefits that an organization is entitled to receive depends upon the degree of public benefit activity it pursues.

*Public benefit organizations exempt.* A second approach is to exempt only those organizations that engage in public benefit activities. Five countries and the Republic of Srpska exempt from income or profits taxes only organizations that engage in activities that serve some type of public benefit, and list the activities in which such organizations must engage. The usual list, both in the region and elsewhere, includes religious, educational, scientific, and charitable organizations.

The countries in this category are Albania, Bulgaria, Estonia, Poland, Romania, and the Republic of Srpska. For example, in Albania, the law provides that “legal entities that carry out religious, humanitarian, charitable, scientific and educational activities,” are tax exempt, provided that property or profits are not used for the benefit of founders or members.<sup>16</sup> While organizations engaged in charitable, humanitarian, scientific, and educational activities are most frequently exempt from tax, some countries also exempt NGOs performing other types of activities, including amateur sports and political activities. Poland’s more extensive list of exempt activities includes environmental protection, cultural activities, and rural infrastructure support.

In the Republic of Srpska, “institutions” and “legal entities that engage in economic activities other than manufacturing” may take advantage of the tax exemptions available under the corporate income tax. An

---

16 Income Tax Law, No. 8438, Art. 18. Albania recently adopted new framework legislation governing NGOs. See Law on Non-profit Organizations, No. 8788 (May 7, 2001); Law on the Registration of Non-profit Organizations, No. 8789 (May 7, 2001); Law for Some Additions and Amendments to Law No. 7850, Dated 29.07.1994 “The Civil Code of the Republic of Albania,” No. 8781 (May 3, 2001). The Law on Non-profit Organizations, Article 40, states that “relief and exemptions of non-profit organizations from tax and customs obligations are set by law.” The tax law has not been amended since the enactment of the new framework legislation.

institution is a legal entity that is permanently established to render services in the fields of education, science, sport, medicine, social care, and other fields that fall in the domain of government's responsibility (public services). Interestingly, an institution may be registered either as a not-for-profit entity or a for-profit entity.<sup>17</sup> In addition, enterprises for professional rehabilitation and employment of disabled persons that render services or produce products in protective workshops are exempt under all circumstances. Other legal entities may also be eligible for a reduction in their tax bases to the extent that they engage in certain activities, e.g., protection of the environment.

In September 2000, Bulgaria enacted a new "Law on Legal Persons with Non-profit Purposes." The Law establishes a legal framework for founding not-for-profit foundations and associations. The new law provides that the government may support, through tax and other benefits established in the appropriate laws, public benefit NGOs. Public benefit purposes defined by the law include, in addition to health, science, and education, development and establishment of spiritual values, civil society, engineering, technology, or physical culture, the support of the socially vulnerable, needy, or handicapped, support of social integration and personal advancement, and the protection of human rights and the environment.<sup>18</sup>

*More limited exemptions/reduced rates on certain types of income.* Two countries, Lithuania, and Macedonia, provide more limited tax exemptions for NGOs. In Lithuania the law provides a very limited complete exemption from tax. The exemption is available only with respect to donations received pursuant to programs under the Charity and Support Law and membership fees. However, a reduced tax rate of 5 percent applies to charity and support funds, associations, community organizations, and public organizations on all other sources of income.<sup>19</sup> Religious orga-

---

17 If registered as for-profit entity, it is subject to the provisions of the corporate law. Because they are established to render public services, compared to other types of NGOs, institutions are subject to more rigorous scrutiny by the government.

18 The law only recently was enacted, and the tax laws have not yet been amended to provide the benefits referred to above.

The new law represents a distinct departure from prior law with respect to the likely availability of exemptions from tax. Prior to its enactment, Bulgaria did not exempt any type of organization from tax, granting only very limited exemptions for certain sources of income and reduced tax rates for several types of legal entities.

19 In Lithuania, a specific law governs each type of entity, and once an NGO is organized and registered under one of the laws, it is entitled to the reduced income tax rate

nizations are taxable at the ordinary corporate rates, but they may exclude significant portions of their income from taxable income under special rules. In Macedonia, while the 1998 Law on Citizens' Associations and Foundations provides that all associations and foundations may claim the tax exemptions provided by law, the exemptions available under the tax laws are quite limited. The Law on Profits Tax applies to all legal entities that realize profits, and does not provide any exemption for NGOs. The only organizations exempt from tax under all circumstances are enterprises for professional rehabilitation and companies that employ disabled people to work under special conditions, both in manufacturing and in services. Other legal entities may be eligible for a reduction in their tax bases depending on the source of their income and the purpose of their expenditures.

<i>Summary</i>	
<b>ORGANIZATIONS ENTITLED TO CLAIM EXEMPTIONS</b>	
<i>Exempt all NGOs</i>	Czech Republic, Croatia, Federation of Bosnia & Herzegovina, Hungary, Latvia, Slovakia, Yugoslavia
<i>Exempt NGOs with Public Benefit Activities</i>	Albania, Bulgaria, Estonia, Poland, Romania, Republic of Srpska
<i>More Limited Exemptions by Income Source</i>	Lithuania, Macedonia

---

under the Corporate Income Tax Law. The Charity and Support Law applies to specified public benefit activities. The ordinary tax rate applicable to for-profit organizations is 24 percent.

## 2. SOURCES OF INCOME EXEMPT FROM TAX

The laws of the region also address the types of income that are not subject to tax.

### *a. Income from grants, donations, and membership dues*

Income from grants, donations, and membership dues is typically exempt from tax in the countries of Central and Eastern Europe. This practice is in accord with international good practice.<sup>20</sup>

### *b. Income from Economic Activities*

Income from economic activities is subject to a variety of tax treatments in the countries of Central and Eastern Europe. Of those countries that permit NGOs to engage in economic activities, several tax the profit from such activities in full. The others provide an exemption for certain income from economic activities, and use a variety of means to define criteria for exempting income from tax.<sup>21</sup>

As a general rule, economic activities can be defined as “regularly pursued trade or business involving the sale of goods or services and not involving activities excluded under some distinct tradition.”<sup>22</sup> Generally, this definition is understood to exclude the receipt of gifts and donations (see above), certain passive investment income, occasional activities such as fundraising events, activities carried out using volunteer labor, and fees that are “intrinsically connected to the public benefit purposes of the organization” [*i.e.*, tuition for an educational organization].<sup>23</sup> Consider-

20 Information regarding the laws of the surveyed countries pertaining to taxation of grants, contributions, and membership fees is summarized in Exhibit C. In Macedonia, the Law on Profit Tax provides that income of a legal entity from a budget or fund assigned for performance of its activity will not be included in the tax base for purposes of calculating the profit tax. While this provision is unclear and subject to interpretation, it is currently understood to exclude from tax receipt by a legal entity of funds from a central or local government budget, or of funds such as donations, grants, or membership fees that are designated for performance of a statutory activity. As a practical matter, then, grants, donations, and membership fees are not subject to tax.

21 The laws of the surveyed countries pertaining to taxation of income from economic activities are summarized in Exhibit D.

22 International Center for Not-for-Profit Law, “Economic Activities of Not-for-Profit Organizations,” in *Regulating Civil Society*, conference report, (Budapest: May 1996), pp. 6-7 [reprinted at [www.icnl.org](http://www.icnl.org)]; (“Economic Activities”); Lee Davis and Nicole Etchart, *Profits for Nonprofits: An Assessment of the Challenges in NGO Self-financing*, (Santiago, Chile: NESsT 1999), pp. 72-73.

23 *Ibid.*

ation of the tax treatment of income from economic activities by NGOs presents two distinct questions:

- 1) Should NGOs be allowed to engage in economic activities, and, if so, to what extent?
- 2) Under what circumstances should the income from such activities be taxed?

International good practice suggests that NGOs should certainly be allowed to engage in, and earn income from, economic activities as a means of supporting their public purposes.<sup>24</sup> Obviously, however, there needs to be some limitation on the extent to which NGOs can engage in business activities and still be considered NGOs, for an organization that engages primarily in business would appear to be much like a for-profit enterprise and should be treated as such. At a very basic level, the ability of NGOs to act as commercial enterprises is limited by the laws governing their registration and operation, which generally require that they be organized as not-for-profit organizations as defined by law, and that they comply with the nondistribution constraint. Thus, all profits, even from economic activities, must be retained to support an NGO's operations, and may not be distributed as such to any person. However, the countries in the region generally impose additional restrictions on the permissibility of NGO economic activities. They permit NGOs to engage in and earn income from economic activities, but impose a limitation that organizations use the income from their economic activities to support their statutory goals.

*Permissibility of Economic Activities:* Almost all countries in the region permit at least some NGOs to engage directly in economic activities. In most cases, the laws contain the limitation that the purpose of these activities must be to support the goals set forth in an organization's statutes. For example, in Croatia, associations may engage in economic activities identified in founding documents and necessary to accomplish their statutory goals, while foundations may engage in economic activities in order to increase the value of property, which may only be used for pursuing their statutory goals. In the Federation of Bosnia & Herzegovina, a foundation or fund is explicitly permitted to engage in related economic activities if the income is used solely to support the organization's statu-

---

24 See Tax Preferences, *supra* note 4.

tory goals.<sup>25</sup> Similarly, in the Republic of Srpska, foundations, funds, and legacies may engage in economic activities that are “related and incidental” and provided for in their statutes, as long as the income is used to support statutory goals.<sup>26</sup>

In Romania, a new ordinance on associations and foundations effective May 1, 2000 allows associations and foundations to engage directly in economic activities if they are accessory and are closely related to the organization’s primary purpose. Under the new Law on Legal Persons with Non-profit Purposes, Bulgaria permits not-for-profit foundations and associations to engage in economic activities that are related to an organization’s main statutory activity, as long as the revenue earned from such activities is used to achieve the organization’s statutory purposes.<sup>27</sup> Other countries requiring that income from economic activities be used to support statutory goals include the Czech Republic, Latvia, Slovakia, and Yugoslavia.

Poland and Hungary, as well as Albania, in contrast, have taken slightly different approaches to determining the circumstances in which an NGO may engage in economic activities. Poland permits economic activities by NGOs where they are primarily for a *public benefit* purpose. Hungary’s law provides that most NGOs, in order to engage in economic activities, must not be established for the primary purpose of pursuing business activities, and, for foundations and civil society organizations, that they only pursue business activities in order to achieve their objectives. In Albania, the new Law on Non-profit Organizations provides that a not-for-profit organization may conduct economic activities in order to realize its purposes. The economic activity must conform to the purposes of the or-

---

25 *See infra* this section for a discussion of the Federation’s rules with respect to associations, which are more restrictive.

26 *See infra* this section for a discussion of the Republic of Srpska’s rules with respect to associations.

27 The new law made a fundamental change with respect to the permissibility of economic activities. Prior to the enactment of the new law, the rules relating to the permissibility of economic activities were not set forth in legislation, but were developed by the courts. Under court precedents, Bulgaria permitted NGOs to engage in a “limited amount” of economic activities, meaning those that assisted the more complete achievement of an organization’s goals. The conditions under which economic activities were permissible were: 1) the NGO was not formed for the purpose of doing business; 2) the economic activities did not predominate and were limited in amount; and 3) the NGO did not distribute profits, and any profit realized was used to achieve the organization’s statutory objectives. ICNL appreciates the assistance of Justice Borislav Belaselkov, member of the Bulgarian Supreme Court of Cassation, in providing information relating to the courts’ decisions relating to the permissibility of economic activities.

ganization, be declared as a source of income, and may not be the primary purpose of the organization.

Two countries, as well as the Federation of Bosnia and Herzegovina and the Republic of Srpska, distinguish between foundations and other types of NGOs with respect to the permissibility of business activities. In the Czech Republic, foundations and funds are prohibited from engaging in business activities, but such activities are allowed for all other types of NGOs. Similarly, in Slovakia, foundations and noninvestment funds are prohibited from engaging in business activities.

In the Federation of Bosnia and Herzegovina and the Republic of Srpska, by contrast, foundations and funds are explicitly permitted to engage in economic activities, but the rules with respect to associations are either, in the case of the Federation, more restrictive (see below), or in the Republic of Srpska, unclear. In the Republic of Srpska, the law does not specify whether and under what conditions associations may engage directly in economic activities.<sup>28</sup> An association may, however, form a separate company to engage in economic activities.

Two countries and the Federation of Bosnia and Herzegovina are exceptions to the general trend in favor of permitting NGOs to engage directly in economic activities. In Macedonia, foundations and associations may not engage in economic activities directly. In order to engage in income-generating activities to support their not-for-profit purposes, they must found separate joint stock or limited liability companies. These separate subsidiaries are subject to the same tax rules as other commercial enterprises. Similarly, in Lithuania, all types of not-for-profit organizations are universally prohibited from engaging directly in a trade or business. Any business activities must be conducted through a separate company. The same is true for associations in the Federation of Bosnia and Herzegovina.<sup>29</sup>

*Taxation of Income from Economic Activities:* In determining how income from economic activities should be taxed, several possible approaches or tests are available:<sup>30</sup>

---

28 Draft laws under consideration in Bosnia and Herzegovina at both the state and entity levels specifically provide that foundations as well as associations may engage in related business activities.

29 Apparently this rule also applies to humanitarian organizations established under the Federation's Law on Humanitarian Activities and Humanitarian Organizations.

30 For a more extensive discussion of the advantages and disadvantages of each of these rules, see *Economic Activities*, *supra* note 22, p. 9-16; *The World Bank Handbook*, *supra* note 4, pp. 105-06 and Appendix V.

1) All income is taxed.

2) The “relatedness” test, under which a tax is imposed only where the activities generating income are unrelated to the organization’s public benefit purposes. The United States, which imposes an “unrelated business income tax,”<sup>31</sup> is an example of a country adhering to this approach.

3) The “destination of income” test, under which all income from economic activities that is used to support the organization’s public benefit purposes is exempt. This approach is employed in, *e.g.*, Germany, where the law provides that income from a business activity is taxable unless the activity directly serves to realize the NGO’s purpose.<sup>32</sup>

4) A “threshold” or mechanical test, under which all business income above an established threshold is taxed.

5) Complex tests, which combine elements of the foregoing rules with each other or with other provisions.

*No exemptions:* Of the eleven countries in the region that permit NGOs to engage in business activities, three – Albania, Bulgaria, and Romania tax the income from such activities in full. In Bulgaria, for example, the Corporate Income Tax Act of 1997 defines income as including “dividends, [returns on] equity, interest payments, positive balances from sales of immovable property, movables, and financial long-term assets, royalties, fees for technical services, and rental payments.” All income is subject to a municipal tax and a profits tax.<sup>33</sup> The profits tax of 20 percent (15 percent for taxable profits less than 50,000 BGL) is calculated and paid after payment of the 10 percent municipal tax. Similarly, in Romania, foundations and associations that engage in economic activities, whether directly or through a separate subsidiary, pay profits tax of 25 percent on profits from business activities. Only income from the delivery of goods or provision of services resulting from specific activity carried out by foreign organizations for the handicapped is exempt from profit tax. In Albania, a new Law on Non-profit Organizations explicitly permits NGOs to engage in economic activities – a marked departure from prior law, which prohibited economic activities – but the tax laws have not been amended since

---

31 See 26 U.S.C. § 511, *et seq.*

32 Schauhoff, Stephan, “The Economic Meaning of Not-for-Profit Organizations,” in *Cahiers de Droit Fiscal International*, vol. LXXXIVa (The Hague: Kluwer Law International 1999), p. 430.

33 As noted, while the new Law on Legal Persons with Non-profit Purposes contemplates that tax benefits will be extended to public benefit organizations, the tax law has not yet been amended. Thus, the income from economic activities at this time continues to be taxed.

the enactment of the new law. Presumably, since the tax law does not provide for exemptions, income from NGO activities will be taxed on the same basis as the income of other legal entities.

*Exemptions available:* Seven other countries in the region, and the Republic of Srpska, provide an exemption from tax for income from economic activities; the countries are Croatia, the Czech Republic, Hungary, Latvia, Poland, Slovakia, and Yugoslavia. Only two of the countries, Latvia and Poland, employ one of the tests listed above strictly; the others all combine various tests in taxing income from economic activities.

In addition, the Federation of Bosnia and Herzegovina does not subject NGOs to the corporate income tax, and income from economic activities is therefore not taxed; however, as noted *supra*, foundations are restricted from engaging in economic activities unless they are both related and used to advance a statutory purpose, and associations may not engage directly in economic activities at all.

*Relatedness Test:* Latvia applies a “relatedness” test. Income from business activities related to the organization’s statutory purposes is exempt, while income that is unrelated is taxed on the same basis as the income of for-profit businesses.

*Destination of Income Test:* Poland is the only country in the region that employs the destination of income test. Under the law of Poland, income from business activities, like other NGO income, is exempt to the extent that it is dedicated to the pursuit of public benefit activities specified in the law.

*Other Tests:* Several countries employ more complex rules for determining when income from economic activities will be taxed. These countries have rules that employ some aspects of the destination of income or relatedness tests, but combine them with other conditions. For example, in the Czech Republic and Yugoslavia, the destination of income test is combined with income thresholds below which all business income is exempt. In the Czech Republic, NGOs are entitled to an exemption for income from business activities below 100,000 CK (approximately \$2500 US). Income above that amount is subject to a 30 percent tax deductible allowance up to 3 million CK (\$75,000 US), provided the tax savings are used to fund expenses in connection with or to advance the organization’s tax exempt activities. In Yugoslavia, profits generated from an organization’s

economic activities are exempt from tax if they meet three conditions: 1) the profits do not exceed 300,000 dinars (approximately \$4300 US); 2) profits are not distributed to the organization's founders, employees, members of the board, or persons affiliated with them; and 3) salaries of board members and employees do not exceed double the amount of the average salary paid in the field of economic activity in which the organization is engaged. An organization that had profits of 300,000 dinars or more may nonetheless be entitled to an exemption from tax if it can prove that the profits were spent for the purposes for which the organization was established. Otherwise, profits are taxed at the corporate rate of between 20 and 30 percent.

Slovakia employs a relatedness test, but requires that to claim an exemption for related business income, an NGO may not conduct its activities using prices that are more advantageous than prices charged in the for-profit sector. The income earned must be proportional to the costs as determined by comparing the NGO's costs with the costs of other legal persons performing the same activities. In addition, Slovakia exempts income from related economic activities below a threshold of 300,000 SK (approximately \$7500 US). The Republic of Srpska combines a relatedness test with a ceiling on related business income. Institutions and legal entities engaged in economic activities other than manufacturing are exempt from tax on income generated from related activities provided that such income does not exceed 25% of the organization's overall income for the fiscal year.

In Hungary, the corporate tax law states that for foundations, public foundations, civil society organizations, and public chambers, business activity does not include a public benefit activity or sales of assets or inventories serving solely a public benefit activity. If the NGO is not a public benefit organization, business activity does not include activity in connection with the organization's statutory purposes, or sales of assets or inventories serving solely such an activity. Income from these activities is thus not subject to tax. Income from other economic activities that does not exceed specified thresholds is treated as exempt; the thresholds are different for different types of organizations, depending on the level of public benefit status. Non-public benefit organizations are entitled to exemption for business income that does not exceed 10 percent of total income or 10 million HUF (approximately \$35,000 US). Ordinary public benefit organizations are entitled to an exemption for such income if it does not exceed 10 percent of total income or 20 million HUF. "Prominently" public benefit organizations are entitled to an exemption for such income

up to 15 percent of total income. Public benefit companies are entitled to an exemption on taxable income above the 10 percent threshold in the proportion of income from “preferential” (tax-exempt) activities to overall income.

Under Croatia’s new Corporate Income Tax Law, income generated from a qualified NGO’s economic activities may be subject to tax if exempting that income would result in the NGO’s gaining an “unjustified privileged position in the market.” The Tax Administration, on its own initiative or upon the request of a taxpayer or other interested person, may determine on a case by case basis whether to tax income generated from an NGO’s economic activities. This essentially means that there is a possibility that income from economic activities will not be taxed, as long as the Tax Administration does not determine that the aforementioned condition is fulfilled. However, it is not yet clear how the Tax Administration will interpret the “unjustified privileged position in the market” language of the new law, and what types of activities will be considered to afford such a position to an NGO. Those organizations that are found to have an “unjustified privileged position” will be taxed on gross profit at the rate of 20 percent. The Croatian law in addition provides that an organization established under special rules for the purpose of professional rehabilitation and employment of handicapped persons is taxed on its income from economic activities at 25% of the prescribed rate.

**Summary of Exemptions for Income from Economic Activities**

<i>Prohibit direct economic activities</i>	Lithuania, Macedonia
<i>Not subject to tax</i>	Fed. of Bosnia & Herzegovina
<i>Tax income from economic activities</i>	Albania, Bulgaria, Romania
<i>“Relatedness” test</i>	Estonia, Latvia
<i>“Destination of Income” test</i>	Poland
<i>Complex tests</i>	Croatia, Czech Republic, Hungary, Rep. of Srpska, Slovakia, Yugoslavia

### *c. Investment Income*

In many countries with established NGO sectors, investment income provides an important source of income for NGOs. Private foundations and universities invest large endowments, earning substantial income in the form of interest, dividends, and capital gains that they can use in turn to support their activities. Other organizations earn rents from property investments, royalties from the sale of intellectual property rights, and dividends or interest from stock holdings, bank accounts, and other investments. On the other hand, because it is important that the resources of at least public benefit NGOs be devoted primarily to public purposes, countries that provide incentives for investment sometimes establish rules to prevent NGOs from accumulating excessive capital.<sup>34</sup>

Conceptually, then, the tax issues related to such investments by NGOs are:

1. Should NGOs be permitted to earn income from passive investments?
2. How should the income from investments be taxed?
3. What limitations on, *e.g.*, accumulation of capital, distribution of income, and investment management should be imposed?

A wide variety of approaches to these issues exists in the region.<sup>35</sup>

*Permissibility of passive investments:* All countries in the region permit NGOs to earn income from passive investments.

*Taxation of passive investment income – investment income taxed:* The tax treatment of passive investment income varies not only by country, but also within countries by type of investment and type of NGO. Six countries – Albania, Bulgaria, Croatia, Latvia, Macedonia, and Slovakia –

---

34 Some countries have accumulation rules that require NGOs to spend a specified percentage of their income each year, thereby preventing capital accumulation. In Germany, for example, accumulation of capital by a foundation is considered to violate the principle of charity, and a foundation must generally spend all of its income within one year of receipt; the law does permit some retention of capital to support larger investment projects. Other countries have minimum distribution rules designed to ensure that NGOs' resources are consistently devoted to public purposes rather than accumulated. The United States, for example, requires that foundations spend an amount equal to 5 percent of their net investment assets each year, and imposes excises taxes on those that fail to meet this requirement.

35 The laws of the surveyed countries pertaining to investment income are summarized in Exhibit E.

as well as the Federation of Bosnia and Herzegovina treat almost all investment income as taxable.<sup>36</sup> In Macedonia, an NGO may receive passive investment income from interest, dividends, and rents without forming a separate business subsidiary (as it would be required to do in order to receive income from economic activities), but it will be taxed at the ordinary rate of 15 percent on this income.

*Partial exemptions and reductions in tax:* Other countries either tax investment income of NGOs at a lower rate than similar investment income of businesses, or exempt income from certain types of investments from tax. In Bulgaria, for example, although most investment income is taxed, the tax laws do permit all legal entities a profits tax reduction of 10 percent for contributions made to underwrite the establishment of an organization or for an increase in the organization's capital fund to be used for acquisition or improvement of long-term tangible assets; NGOs may take advantage of this reduction. When the reduction exceeds the amount of tax, the excess is deducted over the next five years, provided that the investments and expenses were made over more than one tax year. The reduction only applies in certain municipalities with high unemployment rates. Similarly, in the Federation of Bosnia and Herzegovina, passive investment income is exempt under the following conditions 1) income subject to taxation that is reinvested in manufacturing and house building is 100% tax exempt, and 2) income reinvested in other economic activities is 75% tax exempt.

Serbia and the Republic of Srpska exempt 50 percent of gain from the sale of shares held for more than 12 months in an organization's portfolio. In addition, in the Republic of Srpska, income generated from the purchase of shares or stocks is subject to a tax deduction of up to 30% if the securities are held for more than twelve months. Lithuania taxes investment income of NGOs at a lower, 5 percent, tax rate. Interest and dividend income is exempt from tax in Romania, because it is not considered to be economic income.

---

36 Note that of these countries, Bulgaria and Macedonia also tax income from NGOs' business activities, and thus are consistent in taxing most sources of NGO income other than grants, contributions, and dues. In Albania, prior to the enactment of recent legislation permitting NGOs to earn income from the use of their assets, foundations were not allowed to engage in "profit-making" activity, although in practice, both foundations and associations were permitted to make passive investments, provided that the income was used to support their statutory purposes. Presumably, NGOs will be subject to tax on income from passive investments, since the tax laws do not provide for an exemption.

In Croatia, under the new corporate income tax law, it appears that passive investment income (interest, royalties, and dividends) is subject to taxation only if the organization is otherwise subject to the corporate income tax. (See *supra* §II.A.2.b.) In that case, income will be treated as part of an overall income tax base subject to the 20% rate.

*Exemptions:* Several countries have more generous exemptions for investment income. All passive investment income is exempt in Montenegro. Poland exempts investment income used for public benefit purposes.<sup>37</sup> Hungary differentiates among types of NGOs in its tax treatment of passive investment income. For non-public benefit organizations, and public benefit corporations not registered as public benefit organizations, interest earned from investments in interest-bearing bank accounts or dividends earned on securities are exempt in proportion to the ratio of, respectively, targeted or public purpose activities to total income. Public benefit organizations are exempt from tax on interest and dividends.

*Endowments:* In most countries in the region, the laws do not specifically address the creation of endowments or taxation rules for income earned from endowments. The concept of an endowment as a means of creating wealth to finance grantmaking has not, by and large, taken hold in the region. Serbia and the Czech Republic are exceptions in that both have laws that specifically address the taxation of endowments. Serbia explicitly exempts earnings on an endowment from tax. In the Czech Republic, the Law on Foundations and Funds provides that certain passive investment income derived from a registered endowment is not subject to taxation.<sup>38</sup> A registered endowment is that part of the foundation's assets

---

37 However, an opinion by the Supreme Administrative Court interpreting the Polish Corporate Tax Law in a case involving the Foundation for Polish Science threatens to limit severely the degree to which Polish foundations may invest their assets to support their activities. The Supreme Administrative Court ruled that the foundation should be required to pay corporate income tax on funds used to purchase securities, as these were not expenditures within the foundation's statutory activities. The Court opined that only direct expenditures supporting the foundation's statutory activity – science – were tax exempt. Fixed term bank deposits, may, as a result of this decision, be the only tax-exempt form of investment available to foundations. The amount of penalties and interest levied against the Foundation exceeded its statutory funds, and threatens the Foundation's existence.

38 For further discussion of the Czech Law on Foundations and Funds, see Robert N. Thomas, "Structural and Systemic Issues Surrounding the Establishment and Management of Endowments in the Czech and Slovak Republics," 2 *International Journal of Not-for-Profit Law*, Issue 4 (June 2000)[[www.icnl.org](http://www.icnl.org)].

that cannot be sold or purposefully diminished. The registered endowment may consist of monetary assets kept in a special bank account, state-issued or state-guaranteed securities, real estate, income-producing art objects, and certain intellectual property rights.

Periodic income, such as dividends and interest, generated by the registered endowment may be expended to support the foundation's activities, and is exempt from tax if it is used in accordance with the Act. If a foundation is to take advantage of the tax exemption for its income, then the investment income net of expenses must be incorporated into the registered endowment and entered into the register of foundations and funds as part of the registered endowment. Otherwise, the income will be taxed.

The Act contains limitations on administrative expenses that may be charged to the registered endowment, and requires that a foundation select among three administrative expense management levels. All changes in the amount of the registered endowment must be registered with the government. The Act limits the investment of assets of a registered endowment to state guaranteed instruments or special accounts with financial institutions. Capital gains are in any case taxed.<sup>39</sup>

The practical implications of this law are unclear, as a limited number of foundations and funds have been established under the new law since its enactment in 1997.<sup>40</sup> As a practical matter, the strict restrictions on investment described above may inhibit substantial earnings on endowments in the near term. Nonetheless, it is expected that this law will encourage the establishment of sustainable foundations.<sup>41</sup>

---

39 The Czech Republic in 1991 created the Foundation Investment Fund to support foundation endowments, and allocated shares from a privatization round to the Fund. In 1999, the Chamber of Deputies of the Parliament approved a government proposal to distribute 500 million CZK from the Fund to 39 foundations. In December 1999, the Chamber of Deputies approved a government proposal for rules for a second round distribution. The formation of the fund was in part the motivation for reform of the foundation laws. Jiří Müller, "The Economic Environment for the Civil Non-profit Sector in the Czech Republic: Foundations and Assets" (conference report) (Brno, Czech Republic: May 2000), pp. 28-31; Petr Pajas, "Endowments of Foundations Receive Contributions from the State Privatization Fund of the Czech Republic," ("Endowments") [*reprinted at* [www.icnl.org](http://www.icnl.org)].

40 See Müller, *supra* note 39, p. 25. Only 144 foundations had re-registered under the new law by March 1999.

41 Pajas, Endowments, *supra* note 39. Otherwise, in the Czech Republic, investment income is generally fully taxable. Associations may not be established for entrepreneurial purposes, but the law does not specifically prohibit investment in the business activities of other persons. Public benefit corporations, on the other hand, are strictly forbidden from taking part in commercial activity by other persons; this means that these organizations may not invest in the securities of investment funds.

*Restrictions on distributions, accumulations:* With the exception of the Czech Republic, where the Law on Foundations and Funds provides limitations on the types of investments that a registered endowment may make, the countries in the CEE region that permit passive investments by some or all NGOs do not generally restrict the types of investments that an NGO may make.

Since the existence of endowments is not widespread, the laws of the region do not address restrictions on the types of investments and standards for managing endowments. Similarly, the countries in the region uniformly do not provide that endowed foundations must distribute a minimum portion of their assets (see, *e.g.*, 26 U.S.C. §4942), or limit their capital accumulation.

### **3. Treatment of NGOs under Estonia's New Integrated Tax System.**

In a distinct departure from the tax practices employed by other countries in the region, Estonia eliminated its tax on the income of legal entities in favor of a tax on certain of their distributions. Thus, legal entities now pay tax on distributions that they make in the form of salaries and fringe benefits paid to natural persons, gifts and charitable contributions, dividends and other distributions of profits, and “non-enterprise expenses.”<sup>42</sup> NGOs are not exempt from this tax. Nonetheless, public benefit organizations are entitled to tax benefits, in that certain distributions to them are not taxable to the payer. In order for the payer of the distributions to receive the tax benefits, the recipient NGO must be entered on a government list. To qualify for entry on the list, an NGO must engage in specified public benefit activities (including education, charity, religious, scientific, culture, public health, and social welfare, among others), limit its administrative expenses, and meet certain other conditions.

---

42 The purpose of Estonia's income tax reform was to make foreign investment in the Estonian economy more attractive, while reducing tax fraud and evasion. See Letter of Siim Kallas, Minister of Finance, to Taxpayers, “Implementation of the Income Tax Act” [www.fin.ee/] (April 25, 2000). The drafters view the reform as instituting a new principle of calculation of income tax, rather than an elimination of the corporate tax. Rather than taxing legal entities on profits, and shareholders on dividends and capital gains, Estonia imposes a unified tax on corporate distributions. Thus, any income retained by a legal entity for use in its business is no longer subject to tax, creating an incentive for such investment. Estonian law also provides for a flat tax of 26 percent on the income of individuals, with limited deductions, including a deduction for contributions to NGOs. See § I.I.C.2, *infra*.

The tax on distributions is at the rate of 26/74 and applies to NGOs as follows.<sup>43</sup> In Estonia, NGOs, like other employers, pay tax on fringe benefits furnished to their employees. NGOs, like other legal persons, pay the tax on gifts and contributions made to NGOs that are not on the government list.<sup>44</sup> A contribution, such as a grant, by one organization on the list to another on the list is not considered to be a taxable distribution. However, contributions, even by a public benefit organization, to an organization that is not on the list will be taxed to the donor. When an NGO (or other legal entity, see *infra* §C.1) not on the list makes a gift to an organization on the list, it pays the tax on the amount exceeding 2 percent of the amount subject to the social tax (essentially, employee remuneration). If an NGO makes a gift to a natural person, the gift is taxed unless it is pursuant to a foundation's statutes, in which case it is not taxed.

Commercial entities pay the tax on their dividend payments and other distributions of profits; however, such distributions made to NGOs on the government list are not considered taxable distributions.<sup>45</sup> Thus, if a corporate profit distribution is made to an NGO on the government list, it is not taxable. A corporate distribution made to an NGO that is not on the government list is subject to tax.

Estonia also taxes certain expenditures made in connection with economic activities by NGOs. Expenditures made in connection with activities that are unrelated to an NGO's statutory purposes are considered non-enterprise expenses, or taxable distributions, by the organization on which it must pay tax.

---

43 The rules discussed here pertain to legal entities resident in Estonia. The rules for nonresident legal entities with a permanent establishment in Estonia are for the most part similar, although there are some additional provisions pertaining to their taxation.

44 This rule thus preserves tax benefits for donations to public benefit NGOs, and is discussed in more detail in § II.C., *infra*, which deals with tax benefits for contributions.

45 Note that under this law a distribution from one legal entity to another generally is not taxable, since the profits of both are free from tax. Profit distributions to individuals and not-for-profit organizations that are not on the government list, however, are subject to tax. NGOs are prohibited by virtue of the nondistribution constraint from making profit distributions, and should not themselves be making dividend and profit distributions that would subject them to tax. NGOs, like other legal entities, must report monthly their taxable distributions.

## **B. EXEMPTIONS FROM OTHER TAXES**

### **1. Real Estate Taxes (Including Land Use and Building Taxes)**

All countries in Central and Eastern Europe except Estonia exempt at least some NGOs from taxes on real estate, including land and buildings.<sup>46</sup> At least seven of the countries surveyed for this study provide for broad exemptions of organizations with public purposes from real estate taxes; these countries are Bosnia & Herzegovina, the Czech Republic, Hungary, Latvia, Lithuania, Macedonia, and Yugoslavia.

In the Federation of Bosnia & Herzegovina and Yugoslavia, for example, NGOs are exempt from taxes on real property to the extent that property is used to advance the organizations' statutory purposes. In the Czech Republic, lots with buildings used for ceremonies of churches and religious societies, owned by associations or public benefit corporations, or used by schools and educational establishments, museums, art galleries, public libraries, state archives, health or social care institutions, and foundations and funds, are all exempt from the land use tax. In addition to the above, buildings used exclusively for improving the environment are exempt from the building occupancy tax. Similarly, Latvian law contains broad exemptions from real estate taxes for religious organizations, public cultural associations, and other public organizations, immovable property used for health protection, sports, public education, and cultural needs, environmental and fire protection. Lithuania also exempts most NGOs from real estate taxes, including charity and support funds, community organizations, associations for the handicapped, educational, social welfare, environmental protection, and religious organizations. Macedonia exempts from the property tax buildings and land used for educational, cultural, scientific, social, health care, humanitarian and sports purposes, except those buildings or parts of buildings and land that are economically exploited or leased.<sup>47</sup>

Other countries exempt more limited categories of NGOs from real estate taxes. In Albania, most organizations are subject to tax, except for certain international organizations and disaster relief organizations des-

---

46 The laws pertaining to real estate, gift and inheritance, value added, and other taxes are summarized in Exhibit F.

47 Note, however, that in Macedonia the Law on Property Tax imposes both a tax on value, from which certain specified organizations are exempt, and in addition a tax on real estate and the rights thereto when the property is transferred for a price or exchanged for remuneration. NGOs are not exempt from this tax.

ignated by the Council of Ministers. In Bulgaria, the Bulgarian Red Cross, community centers, and buildings used for certain types of public purposes (e.g., museums) are either exempt or are granted certain tax privileges. Croatia exempts the Red Cross and similar humanitarian organizations, funds and foundations, and not-for-profit medical institutions, from the 5 percent capital transfer tax that applies to all real estate transactions that occurred before January 1, 1998.<sup>48</sup> In Romania, buildings housing public institutions, buildings considered historical or similar monuments, except for those parts used to conduct business activities, buildings used for religious sects recognized by law, and buildings owned by testamentary foundations are exempt from tax. Real estate taxes can be increased or decreased by up to 50 percent by the decision of the local county council. The availability of the real estate tax exemption may be affected if the organization fails to comply with a legal requirement that it apply to the local council for calculation of its real estate tax amount within 30 days of becoming the owner of a building. Poland exempts only associations that engage in activities for the benefit of youth (i.e., education, sports, recreation, and science) from real estate taxes to the extent that they do not use the property for economic activities.<sup>49</sup>

Slovak law provides for three separate taxes: the “feu” duty, the building tax, and the apartment tax, and some NGOs are exempt from each of them. Generally speaking, land with buildings used by religious communities, schools, scientific and research institutions, libraries, hostels, health care facilities, public benefit institutes, the Slovak Red Cross, and for other specified public purposes are exempt from the feu duty. Schools buildings and health care and rehabilitation facilities, facilities for the provision of social services, as well as other specified public purposes are exempt from the building tax, as are buildings owned by foundations and not-for-profit organizations. Apartments that are used for rehabilitation or to provide social care and services are exempted from the apartment tax. These exemptions are available only where the property is not used for business activity or held for rent to others (i.e., where it is used for the organization’s statutory purposes).

---

48 Real estate transfers that occurred after January 1, 1998 are taxed under the VAT.

49 Although other organizations must pay tax, the tax on plots and buildings not used for business activities is relatively low.

## 2. Gift and Inheritance Taxes

In most of the countries studied in the survey, neither NGOs nor their donors pay taxes on gifts or bequests, either because there is no gift or inheritance tax, or because gifts or bequests to certain NGOs are exempt from the tax. Three of the countries covered by this survey, Albania, Estonia, and Romania, do not have gift or estate taxes.<sup>50</sup> In Bosnia & Herzegovina,<sup>51</sup> Croatia, the Czech Republic, Macedonia, Montenegro, Poland, and Slovakia, gifts and bequests to NGOs are generally exempt from these taxes. In Serbia, gifts or inheritances received by legacies<sup>52</sup> and foundations are exempt. In Hungary, gifts and inheritances for public benefit purposes are exempt. In Bulgaria, not-for-profit entities are not taxed on inheritances or gifts received to further to their statutory purposes. The Bulgarian Red Cross, national organizations for the disabled, and funds created to assist victims of natural disasters and for the restoration of historical and cultural monuments are exempt from the gift tax. Property given by will to the state, municipalities, the Bulgarian Red Cross, community centers, or other not-for-profit legal entities is not subject to the inheritance tax. Similarly, in Macedonia, organizations of the Red Cross, humanitarian and social institutions, scientific, educational, and cultural institutions and religious communities, are exempt for gifts received in the form of movable or immovable property, financial resources, and claims. In Croatia, gifts and inheritances in cash or in kind with a market value in excess of a prescribed threshold are taxed at 5 percent, unless the VAT has already been imposed. The Red Cross and other humanitarian organizations, as well as associations, funds and foundations, and not-for-profit medical institutions are exempt from this tax.

---

50 Estonia has no gift tax per se. However, gifts by legal entities to not-for-profit organizations that are not public benefit organizations on the government's list are taxable distributions. See *supra* at § II.A.3.

51 In the Federation of Bosnia & Herzegovina, organizations are exempt from gift or inheritance taxes on the gifts they receive to the extent such gifts are used to advance statutory goals. This rule is also in effect in the Republic of Srpska, although it is less clear whether associations, as well as foundations, may take advantage of the exemption. In practice, associations have had difficulty obtaining exemption from the gift and inheritance tax.

52 A legacy is a pool of property established by a natural person to pursue public benefit goals. A legacy is a legal entity and must be registered. A legacy differs from a foundation in that it can only be established by a domestic or foreign natural person, whereas a foundation may only be established by a domestic legal person. Serbian law also provides for funds, which can be established by either domestic or foreign natural persons, or domestic legal persons.

In the other countries, the exemptions from the gifts and estate taxes are more limited, *i.e.*, the exemption applies to narrower categories of organizations. In Lithuania, the gift and estate taxes apply only to natural persons who receive gifts or bequests. A gift or bequest to a not-for-profit organization is considered income from non-business activity and is taxed at the 5 percent reduced rate unless the law governing tax-exempt income applies. See *supra* § II.A.1. Latvia permits no exemptions from either the tax on inheritance or on gifts for gifts received by NGOs.

### 3. Value Added Taxes (VAT)

All countries in Central and Eastern Europe impose a value added or similar tax upon the sale or transfer of goods and services. The treatment for NGOs under VAT regimes varies widely. Even within a single country, different types of NGOs may find themselves subject to different treatment for purposes of VAT.

There are several ways in which VAT may be applied to NGOs. One option is to exempt NGOs from the VAT system. This option ensures that NGOs do not have to collect and pay over VAT on goods and services that they provide, and they thus do not incur compliance costs (*i.e.*, for accounting and reporting.) Unfortunately, they are also unable to obtain rebates for the VAT that they pay for the goods and services that they purchase. As a result, this is not an approach that is particularly beneficial to NGOs.<sup>53</sup> Another option is to “zero-rate” goods and services. In other words, if the VAT rate is 20 percent, NGOs (and others) will collect and pay over nothing on the zero-rated goods and services that they provide. They will have to pay the 20 percent VAT tax included in the price of the goods and services they purchase, but they may seek rebates for those amounts. This is generally considered a more beneficial option for NGOs.<sup>54</sup> Other approaches include according preferential, rather than zero, rates on certain goods and services, and exempting NGOs from VAT on certain transactions. All countries in the region have a monetary threshold below which an organization need not register for inclusion in the VAT system.

---

53 See International Center for Not-for-Profit Law, “Economic Activities of Not-for-Profit Organizations,” in *Regulating Civil Society*, conference report, Budapest 1996, at Appendix I – Value Added Tax (VAT) [reprinted at [www.icnl.org](http://www.icnl.org)]; Tax Preferences, *supra* note 4.

54 This option may be limited in those states seeking EU accession, however. See *infra* note 69 regarding harmonization of VAT in the EU.

*Exempt organizations:* Several countries in the CEE region take the approach of exempting either all or some NGOs from the VAT system. The exemption is generally limited to the extent that either a) the NGO engages in activities other than public benefit activities, or b) the NGO engages in commercial activities. Countries in this category include Romania, Slovakia, and the Czech Republic. Croatia exempts from VAT religious organizations and the Red Cross, as well as political parties, trade unions, trade chambers, and most domestic humanitarian organizations. It has also recently enacted amendments to its VAT law providing for a “tax holiday” or exemption, for not-for-profit organizations that receive foreign donations of goods or services, as well as for in-country purchases financed by foreign financial aid. The amendments also provide an exemption for independent artists and artistic organizations. Macedonia does not as a general matter exempt NGOs, but cultural organizations, botanical gardens, zoos, parks, archives, and documentation centers are exempt. Estonia has very limited exemptions from VAT; goods not subject to excise tax received by NGOs are exempt from import VAT if they are received as state foreign aid or purchased with money received as state foreign aid, or granted as state foreign loans.

Hungary permits taxpayers with less than actual or expected annual income of 2 million HUF (approximately \$7000 US) from economic activities to elect tax-exempt status. The rationale behind this provision is that an organization with little income will bear a disproportionate administrative burden in complying with the law.

*Exempt transactions:* The most common approach taken in the region, however, is not to exempt any particular type of organization, but instead to exempt transactions in certain goods and services. The VAT laws in each of the countries in this category contain a list of the types of goods and services that are exempt, and the list varies from country to country. In Albania, for example, donated food or medical services benefiting NGOs are exempt from VAT, as long as these goods are not resold. In Bulgaria, donations to NGOs are exempt from VAT; certain transactions are exempt, as are import transactions relating to certain foreign aid. In Croatia, international humanitarian organizations are entitled to an exemption for goods and services purchased for official use and for private staff use if there is an agreement between the organization and the government. Lithuania exempts goods imported as charity from import VAT. In Macedonia, gifts by foreign donors to public institutions and registered Macedonian humanitarian organizations are exempt. Poland’s VAT law

contains a list of goods and services that are exempt, including education, health protection, and social welfare. Hungary and Latvia also exempt goods and services provided for specified public purposes.

*Zero and preferential rates:* Zero and preferential rates are infrequently used in the region. Hungary and Poland use zero or preferential rates to reduce the amount of VAT collected and owed on transfers of certain goods and services. These rates are not imposed specifically on goods or services provided by NGOs. However, some of the goods or services subject to lower VAT rates are among those likely to be provided by NGOs (e.g., education, health, welfare services). Poland applies a 7 percent preferential rate to many goods and services, including hearing aids, pharmaceutical products, certain medical and sanitary articles, rehabilitation products, and Braille devices. Hungary zero-rates pharmaceuticals, books for public education, and products for the blind, and affords a preferential rate of 12 percent to, e.g., certain medical and pharmaceutical products, book, newspaper, and magazine publishing, performing arts, library services, professional sports, and zoological and botanical parks. Croatia applies a zero-rate to scientific journals. Macedonia gives a preferential rate of 5 percent for the publication of brochures and periodicals.

*Turnover taxes:* Yugoslavia and Bosnia & Herzegovina employ turnover taxes as opposed to VAT. These are older style taxes, which have now been eliminated in most countries of the region in favor of value added taxes. In Montenegro, NGOs are exempt from turnover taxes on goods as long as they are for the organizations' statutory activities. In Serbia, the rule is the same, except that it specifically exempts goods imported for aid by the Red Cross and domestic goods donated to the Red Cross. In Bosnia & Herzegovina, the Red Cross and other humanitarian organizations, as well as religious organizations are exempt from turnover taxes on most goods if they are used to pursue the organizations' major statutory goals. In addition, services rendered by such organizations are exempt.

### **Treatment of Value Added Taxes for NGOs**

<i>Exempt organizations</i>	Czech Republic, Estonia, Macedonia, Romania, Slovakia
<i>Exempt transactions</i>	Albania, Bulgaria, Croatia, Hungary, Latvia, Lithuania
<i>Zero Rating</i>	Croatia, Hungary, Latvia
<i>Preferential Rates</i>	Hungary, Poland, Macedonia
<i>Turnover taxes</i>	Bosnia & Herzegovina, Yugoslavia

## **C. AVAILABILITY OF TAX BENEFITS TO DONORS FOR CONTRIBUTIONS TO NGOS**

All countries in the region grant at least some benefits, generally in the form of a tax deduction, to donors for contributions that they make to some NGOs. Benefits may be available to both business and individuals.<sup>55</sup> In addition, Hungary, followed more recently by Slovakia, enacted a unique law that permits taxpayers to designate that 1 percent of their taxes be paid to NGOs.

### **1. Benefits for Business Donors**

All the countries in the region permit legal entities to claim benefits for certain donations to NGOs. These benefits uniformly are in the form of deductions. A few countries place limitations on the type of business that may deduct contributions. All limit in some fashion the amount of the deduction. In addition, all of the countries in the region limit the types of organizations to which tax-deductible donations can be made.

*What types of organizations may claim benefits for donations?* Generally, the countries in the region permit for-profit legal entities to claim

<sup>55</sup> The laws pertaining to the availability of tax benefits for donations by individuals and legal entities are summarized in Exhibit G.

deductions for their charitable contributions or their sponsorship of NGOs.<sup>56</sup> One country, Hungary, is more expansive; it permits not only corporations but also unincorporated associations and individual entrepreneurs to claim the tax deduction for contributions. A few countries limit the deduction. Albania allows only those entities that meet the definition of a “trader” (e.g., enterprises and individuals engaged in commercial activity) to be sponsors that may claim deductions. Thus, a foundation may not be a sponsor. Bulgaria limits the deduction to foundations and associations. The new Croatian Law on Income Tax allows businesses to seek deduction for contributions. It also permits businesses to receive rebates for monetary or in kind gifts to qualifying NGOs on the grounds that they are permissible business expenditures. Sponsorships of NGOs are permissible business expenditures for tax purposes only if the sponsoring business receives a reciprocal benefit in the form of promotional services.

*What types of organizations may receive tax-benefited contribution?* The countries in the region generally limit the deduction to donations made to organizations recognized as public benefit organizations, i.e., those that perform charitable, cultural, educational, religious, scientific, or humanitarian activities. The Czech Republic permits, in addition, donations to individuals who run schools and health care facilities or who care for abandoned animals or endangered species.

In Estonia, charitable contributions by legal entities to not-for-profit entities that are not on the government list of public benefit organizations are considered taxable distributions, regardless of whether they are made by an organization on the list, not on the list, or some other type of legal entity. Contributions to NGOs on the government list are taxed, but only if they are in excess of 2 percent of the amount subject to social tax. See below.

In Macedonia, donations for scientific, humanitarian, cultural, educational, health care, religious, and amateur sports purposes may receive tax-benefited donations, but only to the extent that the donations and grants were made to public organizations financed by the state budget or the Red Cross of the Republic of Macedonia.

---

56 Sponsorship is generally a donation given with the expectation that the donor will receive a benefit in the form of advertising. However, this definition is not uniformly accepted; in Albania, sponsorship refers to any kind of financial or material support provided by a qualifying donor, and donors are specifically prohibited from realizing any type of economic profit as a result of their donations.

*Limitations on the amount of the deduction.* All of the countries in the region limit the amount of a deduction that a legal entity may claim. The allowable deduction ranges from 0.5 percent of revenue (Bosnia and Herzegovina) to 40 percent of taxable income (Lithuania permits a deduction for two times the amount of the donation up to 40 percent of taxable income.) In approximately half of the countries surveyed, the business deduction limitation is 5 percent or less.

In Croatia, donations made by businesses (and individuals) to qualifying organizations are deductible up to 2% of the donor's income generated in prior calendar year. This threshold may be exceeded on approval of the competent ministry. For example, if the Ministry of Education and Sport deems a particular project of an amateur sport organization to be especially beneficial, donations to that project may be as much as 100% deductible to the donor. The other half has higher limitations: Poland (10 percent or 15 percent), Hungary (20 percent), Latvia (20 percent), and Lithuania (40 percent).

In Estonia, contributions to NGOs not entered on the government list that exceed 2 percent of payments subject to the social tax (essentially, employee remuneration) for the previous month are subject to tax, and thus only the amount up to 2 percent can be considered a tax-benefited contribution.<sup>57</sup> Legal entities must report monthly on their charitable contributions, but if an organization does not make contributions each month, it may recalculate its reported contributions at year-end to take greater advantage of the tax benefit.

## **2. Benefits for Individual Donors**

Three countries in the region do not generally permit individuals to deduct for contributions to charity –Albania, Macedonia, and Romania.

Hungary, alone among countries in the region, grants a tax credit rather than a deduction for individual donations. However, the credit is limited to 30 percent of tax liability up to 50,000 (approximately \$165 US), or 100,000 HUF (\$330 US) for “prominently” public benefit organizations.

The remaining countries permit deductions for individuals on the same conditions as for legal entities, except that the limitations on the amount of the deduction may differ. Individual deductions in some cases

---

<sup>57</sup> When Estonia eliminated the tax on corporate income, it could no longer limit the amount of tax-benefited corporate contributions by reference to a percentage of taxable income. It therefore selected another means of imposing a limit.

are permitted up to a higher percentage of taxable income. (Estonia – 5 percent; Czech Republic, Slovakia, Yugoslavia – 10 percent). Only Lithuania and the Federation of Bosnia & Herzegovina allow individual donors to deduct 100 percent of their contributions.<sup>58</sup>

### 3. Hungary and Slovakia – “1 percent Laws”

In 1996, Hungary enacted a unique “tax designation” law that permits taxpayers to designate 1 percent of taxes paid to be turned over to civil sector organizations, and an additional one percent to be paid to churches, provided that each of the two designated amounts is at least HUF 100. This law resulted in 1.77 billion HUF (approximately \$9 million US) in payments to NGOs in 1997,<sup>59</sup> when 30 percent of Hungarian taxpayers designated under the law.<sup>60</sup> Slovakia has recently enacted a similar law, which goes into effect January 1, 2002.<sup>61</sup> Lithuania is considering a draft law that contains a similar provision, which allows for a 2 percent designation.<sup>62</sup>

---

58 A draft law in Lithuania would permit individuals to designate that 2 percent of their taxes paid be directed to NGOs. However, the law would eliminate deductibility of contributions for individuals.

59 Lajos Biro and Balázs Gerencsér, “Opinions of Civil Society Organizations on the 1 percent Provision and its Implementation,” in *1 %: “Forint Votes” for Civil Society Organizations* (Budapest: Research Project on Nonprofit Organizations, 2000), p. 224; Istvan Csoka, “The Relationship Between the Government and Civil Sectors in Hungary,” *3 International Journal of Not-for-Profit Law* Issue 1 (September 2000).

60 “One Percent Can Make a Difference – With a Little Help,” *SEAL Journal*, Vol. 1, (Summer 1998), p. 23.

61 The Slovak law as enacted provides that the designation of payment may be for the benefit of “any legal or natural person.” This is clearly not the intent behind the law, and it is expected that the law will be amended in the near future to reflect that such payments must be made to NGOs.

62 In a recent interview, Poland’s Minister of Finance voiced “qualified support” for a 2% law that would permit 1% of taxes paid to be designated for NGOs and 1% to be designated for the Catholic Church. “A Two-percent Law for Poland?” *SEAL Journal*, Vol. 4 (Spring 2001), p. 23.

### III. ANALYSIS OF AREAS FOR TAX LAW REFORM

---

Perhaps the greatest challenge currently facing the NGO sector in Central and Eastern Europe is assuring the sector's financial sustainability. The tax laws affecting NGOs can play an important role in promoting financial sustainability, by among other things, providing for tax exemptions and creating incentives for private philanthropy. As the foregoing summary of the survey results indicates, despite some progress, much work remains to be done if the tax laws in a number of countries in the region are to promote a liberal fiscal enabling environment for the sector.

Two factors suggest that the countries of the region for the most part are ready to confront reform of their tax laws and regulations with the aim of improving the financial sustainability of civil society.

The first is that most countries in the region over the past decade have undertaken reform of the framework laws governing foundations, associations, and other forms of NGOs.<sup>63</sup> Improvement of the basic legal framework is an important preliminary step, because, among other things, such legislation defines the basic forms of organization, as well as which organizations will be considered public benefit organizations generally accorded greater tax benefits. Those countries that have not yet completed reform of the basic legal framework for the establishment of NGOs – Bosnia & Herzegovina and Serbia – are also among the countries in the region with the weakest tax incentives for the NGO sector. These countries will likely need to make concerted efforts to improve their laws governing NGOs before they can engage in meaningful reform of the tax laws affecting NGOs.

Most of the countries of the region, however, having already addressed basic framework legislation, stand ready to address tax issues.

The second factor is that continued growth of the NGO sector in the region is likely to be impeded without expansion and diversification of funding for NGOs. While the not-for-profit sector in Central and Eastern Europe remains small by international standards, it has grown from relative insignificance to a modest economic force in those countries that have

---

63 Indeed, some countries, *e.g.*, Hungary and Estonia, have also undertaken significant reforms of their tax laws governing NGOs.

been studied to date.<sup>64</sup> If this trend is to continue in all countries in the region, NGO sectors must build diverse funding bases by, among other things, developing permissible sources of fee-based revenue and promoting private philanthropy. Appropriate tax incentives can assist in this endeavor by reducing the tax burden associated with certain sources of NGO income and by creating benefits for charitable giving.

The following are areas in which reform of tax laws in countries in the region would contribute to a better enabling environment for NGOs.

- *Expanding tax exemptions to cover mutual benefit as well as public benefit NGOs.* As noted, a number of countries in the region either limit the availability of tax exemptions to public benefit organizations, or provide very limited categories of exemptions. While mutual benefit organizations do not necessarily serve the public interest in the same sense as do public benefit organizations, they do serve the important function of providing an outlet for a wide variety of citizen interests and are as a result indispensable participants in sustaining civil society. There is thus a strong argument in favor of encouraging the creation of such organizations through tax exemptions.

- *Tax exemptions for income earned from business activities.* In most Central and Eastern European countries, indigenous philanthropy has not developed to the point where NGOs can rely on contributions raised either from private grantmakers or from public fundraising efforts to finance their activities. The ability of such organizations, and particularly public benefit organizations, to raise money through business activities designed to support their not-for-profit activities is therefore critical to their viability. The importance of income from economic activities to the support of a viable NGO sector is demonstrated by research showing that on average, in four countries surveyed, private fees and charges make up 46.1 percent of NGO revenue.<sup>65</sup> Private fees as a source of revenue range from a low of less than 29% (Romania) to 47% (Czech Republic) and 55% (Hungary and Slovakia).<sup>66</sup> Significantly, three of the countries examined

---

64 Stefan Toepler and Lester M. Salamon, "The Nonprofit Sector in Central Europe: An Empirical Overview" (paper presented at 1999 VOLUNTAS Symposium, October 15-16, 1999), pp. 11-12. The countries included in the research were Czech Republic, Hungary, Romania, and Slovakia. Data were collected in 1995-96.

65 Ibid. p. 11.

66 [www.jhu.edu/~cnp/research.html](http://www.jhu.edu/~cnp/research.html) [October 18, 2000]. The Johns Hopkins Comparative Nonprofit Sector Project, which conducted this research, provides updated infor-

not only allow NGOs to engage in economic activities, but also provide for exemptions or reductions in income or profits tax for at least some income earned from such activities. This evidence that economic activities are a valuable and needed source of financial support for NGOs suggests that not only permitting, but also encouraging, economic activities by NGOs is critical to the development of a financially sustainable not-for-profit sector.

The laws of several countries in the region, however, still do not permit NGOs to engage directly in business activities for any reason. Lithuania and Macedonia both require NGOs to form separate business subsidiaries to conduct any income-generating activities. These laws may create unnecessary burdens for NGOs seeking to raise funds to support their not-for-profit activities. Not only are such laws an obstacle to financial sustainability, but also they are frequently ambiguous and create compliance problems. For example, in Macedonia, it is not yet clear how broadly the 1998 law imposing the prohibition on direct economic activity should be interpreted. Thus, it is difficult to answer questions such as whether an NGO must form a business subsidiary to conduct even *de minimus* income-generating activities, such as one-time fundraising events. Countries with broad prohibitions on economic activities frequently do not have any means of monitoring those economic activities that NGOs do conduct, leaving the sector without appropriate oversight.

Moreover, of the countries that do permit NGOs to engage in economic activities, two – Bulgaria and Romania – tax the income earned from those activities in full. This practice does not create incentives for NGO financial sustainability. Bulgaria recently has signaled its intention to create tax preferences for economic activities public benefit NGOs in its new NGO law.

Laws permitting NGOs to engage in economic activities and creating appropriate tax incentives must of course contain some limitations to ensure that NGOs are not formed primarily to conduct business. Unfortunately, in many countries in the region, there have been abuses involving businesses that have registered as NGOs in order to gain tax preferences.<sup>67</sup> Preventing such abuses is certainly an important consideration. However, it is not necessary to deny NGOs either the ability to conduct economic activities entirely or tax benefits for all income earned from such activi-

---

mation for the countries subject to the survey on its website. The authors attribute the NGO sectors' revenue structure in these countries to the predominance of NGOs in fee-dominant fields such as culture and recreation.

<sup>67</sup> See Muller, *supra* note 41, p. 25.

ties in order to curb abusive business practices. These problems can be dealt with instead by limiting the availability of a tax exemption for profits earned from economic activities to those NGOs that meet an appropriate test. As discussed in section II, a number of countries in the region have adopted such tests, and provide a variety of models that can be used in the region.

Expanding the tax exemptions granted to NGOs to income earned from business activities designed to support public benefit activities is probably the single most important tax reform that countries in the CEE region could undertake to nurture their NGO sectors.

■ *Tax incentives for investments.* Three of the fourteen countries surveyed – Bulgaria, Latvia, and Slovakia — tax income from passive investments, such as interest on bank accounts, and dividends. Others countries have fairly limited exemptions for passive investment income. Providing expanded exemptions for such income would create a greater incentive to NGOs to invest their assets so as to increase earnings to support their activities.

Two issues deserve particular attention. Exempting the passive investment income of at least public benefit organizations is clearly in accord with international good practice. The tax treatment of passive investment income for mutual benefit organizations, however, presents more complicated issues. Both public benefit and mutual benefit organizations are subject to the nondistribution constraint. Public benefit organizations are also prohibited from distributing their assets upon termination. Instead, most laws require that when a public benefit organization terminates, it must distribute any assets remaining after payment of its debts to another public benefit organization with a similar purpose.<sup>68</sup> Mutual benefit organizations are not prohibited from distributing assets to their members upon termination; since the organization is formed for the benefit of the members, it is considered reasonable to distribute assets earned by use of fees the members paid and efforts they contributed back to the membership. So, for example, if an association of music enthusiasts used fees to buy a piano for use of the members, upon termination, many laws would allow

---

68 See, e.g., Bulgaria's Law on Legal Persons with Non-Profit Purposes, Art. 44, which provides that "[a]ny property remaining after the satisfaction of creditors shall be passed by a court decision to a legal person with non-profit purposes designated for public benefit activities with the same or similar purposes . . ." or, if the property is not transferred in accordance with this provision, to the municipality where the organization had its seat.

the proceeds from sale of the piano to be distributed back to the members. This creates a potential problem when applied to passive investment income, however, particularly if that income is tax-exempt. An investment club could invest funds contributed by the members, accumulate substantial profits, and then distribute the profits to the members upon termination. If such an organization received a tax exemption for its investment earnings, it would be little more than a tax-subsidized mutual fund, an obvious abuse. Laws granting tax exemptions for passive investment income need to limit the exemption accordingly.

A second issue relates to the creation of appropriate incentives for the establishment of endowments. The countries in the region might consider enactment of laws containing special incentives for the creation of endowments (*e.g.*, by providing a special tax credit for such donations), as well as tax exemptions for investment income and incentives for charitable giving (see below). In many countries in the region, indigenous philanthropy has not yet developed to the point where it could be used to create sizable endowments such as those of the large foundations. However, smaller scale endowed organizations, such as community foundations or family foundations, might well be achievable, and could be used to create an additional source of income to sustain NGOs. As the sector matures across the region, it is reasonable to expect that NGOs will expand their use of investments to support their activities. It may be desirable, in connection with legal reform of the tax laws governing passive investment income, to include provisions restricting unlimited accumulation of earnings, and ensuring appropriate management of endowed funds, by, among other things, setting fiduciary standards for fund managers.

■ *Transparency and Accountability Rules.* The extension of additional tax benefits to NGOs will inevitably require consideration of whether NGOs are sufficiently accountable for their use of these benefits. The countries of the region will need to develop reporting systems that appropriately balance the need of the government and the public for accountability with sensitivity to the burdens such systems may place on NGOs. A good example is the Czech Law on Foundations and Funds, which contains significant incentives for the formation of endowments, but also includes strict reporting rules with respect to the use of endowed funds.

■ *VAT.* The laws regarding application of VAT and similar taxes to NGOs contain a patchwork of exemptions, reduced rates, and exclusions from

the VAT system. Most countries exempt certain goods and services, employing a list of exempt transactions that is often quite long, with a variety of different types of items. These laws, at least with respect to NGOs, could be made simpler and more effective by adopting a uniform approach applicable to a greater number of NGO transactions. Much can be gained by looking to the harmonization of value added taxes in the European Union and by attempting to develop systems in accord with the EU system; this is particularly important for accession countries.<sup>69</sup>

■ *Tax incentives for donations.* The countries in the region for the most part permit tax deductions to individuals and businesses that make donations to NGOs. In all cases, the law limits the amount of the deduction to a percentage of the taxpayer's taxable income or tax base. These limitations are for the most part relatively low, and, particularly with respect to individual donations, countries could create additional incentives for donations by raising the permissible amount of the deduction. Hungary, for example, permits tax credits for individual donations only up to \$165 or \$330, depending on the type of donee organization. In a sophisticated economy, such limits provide no real incentives for individual philanthropy. Moreover, consideration of other innovative means of financing the NGO sector, such as Hungary's tax designation law, should be explored.

---

69 Harmonization of the VAT tax base is governed in the EU member states by the EC 6th VAT Directive (Sixth Council Directive of 17 May 1977 on the harmonization of legislation of Member States concerning turnover taxes (77/388/EEC), O.J. No. L 145 of 13 June 1977). Those states seeking admission to the EU will be required to adapt their VAT law as necessary to comply with the 6th Directive. The law in Article 13 provides for certain exemptions from VAT for public interest activities, including for the following services which NGOs frequently undertake: hospital and medical care; welfare and social security; protection of children; education; sport; culture; fund-raising; and transport services for sick or injured persons. The EC 6th VAT Directive allows individual states limited discretion to grant relief from VAT to NGOs. It would be possible for states to grant relief indirectly (e.g., through public expenditure by making compensatory grants or increasing existing grants to NGOs) without breaching EC law, but there is no general provision in the laws that would allow a member state to grant broad-based relief in the form of a direct reduction of the tax rate or the tax base other than as part of the existing framework of relief set forth in the 6th Directive. Within that framework, there are two ways for states to reduce the tax burden: (1) reducing the rate of VAT applicable to goods and services purchased by NGOs; and (2) taxing goods and services supplied by NGOs to their beneficiaries at a rate that is substantially below the standard VAT rate. The EC has decided as a matter of policy that in the interests of completing an internal common market, member states should no longer be allowed to apply zero rates except to the extent currently permitted under the terms of a specific derogation granted to a particular state.

## IV. CONCLUSION

---

The countries of Central and Eastern Europe find themselves at an important juncture with respect to improving the enabling environment for NGOs by providing tax incentives to encourage the expansion and diversification of the funding base for the NGO sector. The information summarized above depicts the current status of tax legislation in the region, and provides a comparative framework for considering the reform measures that could be implemented. It can be expected that targeted reform of the tax laws in a number of countries in the region will continue the significant progress that has been made over the past decade in advancing the development of civil society.

# BIBLIOGRAPHY

---

## **Books**

- Davis, Lee and Nicole Etchart, *Profits for Nonprofits: An Assessment of the Challenges in NGO Self-financing*, (Santiago, Chile: NESsT 1999).
- The World Bank, *Handbook on Good Practices for Laws Relating to Non-governmental Organizations (Revised Discussion Draft)* (Washington, D.C.: September 2000).

## **Articles**

- “One Percent Can Make a Difference – With a Little Help,” *SEAL Journal*, Vol. 1, (Summer 1998).
- “A Two-percent Law for Poland?” *SEAL Journal*, Vol. 4 (Spring 2001), p. 23.
- Biro, Lajos and Balázs Gerencsér, “Opinions of Civil Society Organizations on the 1 percent Provision and its Implementation,” in *1 %: “Forint Votes” for Civil Society Organizations* (Budapest: Research Project on Nonprofit Organizations, 2000).
- Csoka, Istvan, “The Relationship Between the Government and Civil Sectors in Hungary,” *3 International Journal of Not-for-Profit Law* Issue 1 (September 2000).
- International Center for Not-for-Profit Law, “Economic Activities of Not-for-Profit Organizations,” in *Regulating Civil Society*, conference report, (Budapest: May 1996 [reprinted at [www.icnl.org](http://www.icnl.org)]).
- Kallas, Siim, Minister of Finance, to Taxpayers, “Implementation of the Income Tax Act” [www.fin.ee/](http://www.fin.ee/) [April 25, 2000].
- Müller, Jiří, “The Economic Environment for the Civil Non-profit Sector in the Czech Republic: Foundations and Assets” (conference report) (Brno, Czech Republic: May 2000).
- Pajas, Petr, “Endowments of Foundations Receive Contributions from the State Privatization Fund of the Czech Republic,” (“Endowments”) [reprinted at [www.icnl.org](http://www.icnl.org)].
- Schauhoff, Stephan, “The Economic Meaning of Not-for-Profit Organizations,” in *Cahiers de Droit Fiscal International*, vol. LXXXIVa (The Hague: Kluwer Law International 1999).

- The Johns Hopkins Comparative Nonprofit Sector Project, [www.jhu.edu/~cnp/research.html](http://www.jhu.edu/~cnp/research.html) [October 18, 2000].
- Thomas, Robert N., "Structural and Systemic Issues Surrounding the Establishment and Management of Endowments in the Czech and Slovak Republics," 2 *International Journal of Not-for-Profit Law*, Issue 4 (June 2000) [reprinted at [www.icnl.org](http://www.icnl.org)].
- Toepler, Stefan and Lester M. Salamon, "The Nonprofit Sector in Central Europe: An Empirical Overview" (paper presented at 1999 VOLUNTAS Symposium, October 15-16, 1999).

### **Laws**

- Federal Republic of Germany, Abgabenordnung § 52.
- Republic of Albania, Income Tax Law, No. 8438, Art. 18.
- Republic of Albania, Law on Non-profit Organizations, No. 8788 (May 7, 2001).
- Republic of Albania, Law on the Registration of Non-profit Organizations, No. 8789 (May 7, 2001).
- Republic of Albania, Law for Some Additions and Amendments to Law No. 7850, Dated 29.07.1994 "The Civil Code of the Republic of Albania," No. 8781 (May 3, 2001).
- Republic of Bulgaria, Act on Legal Persons with Non-Profit Purposes, Art. 44.
- Sixth Council Directive of 17 May 1977 on the harmonization of legislation of Member States concerning turnover taxes (77/388/EEC), O. J. No. L 145 of 13 June 1977.
- Slovak Republic, Act on Income Taxes, No. 366/1999.
- United States, Internal Revenue Code, 26 U.S.C. § 501(c)(3).
- United States, Internal Revenue Code, 26 U.S.C. § 511, et seq.
- United States, Internal Revenue Code, 26 U.S.C. § 4942.



# **EXHIBITS**

---



# ISSUES TO CONSIDER

---

## A. INCOME TAX

1. What types of organizations or entities are partially or wholly exempt from the income tax? Indicate any special conditions or limitations (e.g., exempt status might be available only if the entity does not engage in political activities or in unrelated business activities).

2. What types of income are wholly or partially exempt (e.g., membership dues, passive (investment) income)? Indicate any special conditions or limitations (e.g., exemption only above or below a specified amount).

3. Must an organization receive an advance ruling from an agency of the government in order to enjoy tax benefits? (In Austria, for example, no rulings are granted. In Guam only known charities are given advance rulings, while others must apply post hoc every year.) If there is a ruling system, please describe it.

4. Is investment income subject to taxation? How is investment income defined? Are there limits on the kinds of investments that may be made (e.g., in South Africa a foundation is exempt only if it invests in licensed investment funds, listed securities, or other investment vehicles approved by the Tax Commissioner)? Are particular kinds of business activities not allowed (e.g., investments in real estate or speculative investments)?

5. May an organization engage in economic or business activities? If the distinction is drawn between related and unrelated income, how is the line between them determined in practice? At what point, if any, does income from business activities become taxable? (For example, in Hungary the exemption used to extend to any business income that exceeds the lesser of 10% of total income or 10,000 forints – now the rule is a bit more complex.) Does the presence of economic activity income make other income taxable (e.g., does it result in loss of exemption)?

6. Are there minimum distribution rules (e.g., in the US private foundations must distribute at least 5% of their income each year)? Do such rules apply to all organizations or just specific types (as in the US)? May a tax exempt organization make unlimited accumulations (e.g., in Ger-

many income can ordinarily only be accumulated for one year, but there are special rules that apply to certain accumulations; in South Africa 75% of income must be disbursed by the year after it is received)?

7. Are tax benefits for charitable contributions allowed? What type of benefit (deduction, credit, or rebate)? To what types of organizations can tax benefited contributions be made (e.g., contributions are not deductible in England if made to an organization that engages in partisan politics)? If the determination of tax benefited status is not set out in the law, how is the determination of status made (in Nigeria, for example, deductible contributions may be made to a list of organizations stated in a schedule to the Companies Income Tax Act)? How is qualification for these benefits determined? Are there any limits on the amount of benefit allowed for either corporations or individuals (e.g., in Argentina deductions are allowed only up to 5% of income of both individuals and companies)? Are carryforwards of unused charitable deductions allowed (e.g., in Canada unused deductions can be carried forward for 5 years)?

## **B. CUSTOMS DUTIES**

1. Are certain items exempt from customs duty on import? (E.g., humanitarian relief.) Does the law specify categories of exemption or are they specified in a schedule, regulations, or rules?

2. Are imports by certain types of organizations exempt (e.g., imports by charities).

3. What are the procedures for claiming the exemption(s)? (E.g., show exemption certificate at time of importation or pay duties and seek rebate.)

4. Are there any rules to prevent abuse through resale? (E.g., if exempt goods are sold or given away within three years of importation, the buyer or recipient must pay duty.)

## **C. VAT (OR GST, OR OTHER SIMILAR TAX)**

1. Are there exemptions from VAT for specific kinds of persons (based on type of activities, not on amount of turnover – in other words, are

certain organizations that do not engage in economic activities not considered to be taxable persons)?

2. May persons not defined as taxable persons elect to be in the VAT system?

3. Are there exemptions from VAT for specific outputs (good and services)? If so, what categories of goods and services are exempt?

4. Are certain good and services zero-rated or given lower rates? If so, which ones?

5. What are the applicable VAT rates?

#### **D. GIFT AND ESTATE TAXES**

1. Are there exemptions from the gift, estate, or inheritance taxes for gifts to or inheritances by certain kinds of organizations (e.g., in Bolivia all gifts to or inheritances by charitable organizations are exempt)?

2. Are there any restrictions on the exemptions (e.g., only up to a specified amount or percentage)?

#### **E. TAXES ON REAL ESTATE**

1. Are any nonprofit organizations exempt from real estate taxes, or do they receive lower rates or other tax preferences (e.g., religious or educational institution)?

2. Are there any limitations or restrictions (e.g., exemption only up to a specified amount or percentage)?

3. Are any payments in lieu of taxes (PILOTs) or services in lieu of taxes (SILOTs) required from exempt organizations?

#### **F. MISCELLANEOUS**

1. Are there any other kinds of tax exemptions, benefits or preferences for nonprofit organizations (e.g., exemption from employment taxes, business franchise taxes, use taxes, etc.)?

SURVEY OF TAX LAWS AFFECTING NGOS IN CEE

EXHIBIT B: NGOs ENTITLED TO CLAIM EXEMPTION FROM INCOME OR PROFITS TAXES

COUNTRY	EDUCATION	CHARITY	RELIGIOUS	SCIENTIFIC
<b>Albania</b>	X	X		
<b>Bosnia</b>				
<b>Bulgaria</b>	X	X	X	X
<b>Croatia</b>		X	X	X
<b>Czech Rep.</b>	X	X	X	X

EXHIBITS

<b>AMATEUR SPORTS</b>	<b>OTHER</b>	<b>COMMENTS</b>
	Humanitarian	In the Fed.of BiH all types of NGOs are exempt from corporate income tax. In the Rep.of Srpska,“ institutions (legal entities permanently established to render services in the fields of education, science, sport, medicine, social care, and other fields falling within the government’s responsibility) and legal entities that engage in economic activities other than manufacturing,” may claim tax exemptions available under law. Enterprises for professional rehabilitation and employment of disabled persons are exempt. Other legal entities may also be eligible for a reduction in their tax bases to the extent they engage in certain activities, e. g., protection of the environment.
X	Health, development or establishment of spiritual values, civil society, engineering, technology, physical culture, the support of the socially vulnerable, needy or handicapped, support of social integration and personal advancement, the protection of human rights and the environment.	
X	Religious communities, political parties, trade unions, chambers, associations, funds and foundations organized for charitable, humanitarian, scientific, cultural, or similar purposes, and other not-for-profit organizations and institutions not specifically named.	The tax authority can grant exemptions to other organizations on a case by case basis. All not-for-profit organizations including foundations, funds, public benefit corporations, and governmental units are entitled to exemptions or reductions in tax.
		All not-for-profit organizations including foundations, funds, public benefit corporations, and govern-

SURVEY OF TAX LAWS AFFECTING NGOS IN CEE

---

**EXHIBIT B: NGOs ENTITLED TO CLAIM EXEMPTION FROM INCOME OR PROFITS TAXES**

---

<b>Estonia</b>	X	X	X	X
----------------	---	---	---	---

---

<b>Hungary</b>	X	X	X	X
----------------	---	---	---	---

---

mental units are entitled to exemptions or reductions in tax.

---

X

Effective 1/1/2000, Estonia adopted a unified income tax, under which legal entities are taxed only on certain distributions, including fringe benefits to natural persons, gifts and charitable contributions, dividends and other profit distributions, and non-enterprise expenses. NPOs are not exempt, and pay the tax of 26/74 on any taxable distributions that they make. A gift or contribution by a nonprofit enterprise on the approved government list (public benefit organizations, including the foregoing and those in the fields of culture, public health, social welfare, protection of nature, and cultural autonomy of national minorities) to another organization on the list is not considered a taxable distribution. A gift or contribution by an NPO to a natural person is taxed at 26/74 except for contributions or gifts of material help listed in foundation articles.

---

X

The corporate income tax law applies to all types of organizations, and all types of NGOs are entitled to claim the tax benefits available under the law. Public benefit organizations (which can be associations, foundations, public benefit companies, etc.) are entitled to greater tax benefits. PBOs include organizations with the foregoing activities as well as activities in the fields of culture, children and youth, human and civil rights, public safety, consumer protection, and others. Prominent PBOs must in addition serve a governmental function, and are entitled to a higher level of benefits. Business income of NPOs not exceeding a specified amount is exempt from tax, and certain sources of income are carved out of the definition of business activity. In order to receive tax preferences, PBOs must not have public debts.

EXHIBIT B: NGOs ENTITLED TO CLAIM EXEMPTION FROM INCOME OR PROFITS TAXES

**Latvia**

---

<b>Lithuania</b>	X	X	X	X
------------------	---	---	---	---

---

**Macedonia**

Nonprofit organizations, private pensions, and public organizations with no business activities are exempt from business income tax.

---

X

No exemptions except for funds received as membership fees or charity and support under Charity and Support Law, which applies to NGOs with activities in the foregoing fields, as well as aid to the needy, aid to war, disaster, and epidemic victims, environmental protection, and others. A reduced tax rate of 5% applies to charity and support funds, associations community organizations and public organizations. For religious organizations, taxable income excludes any income, as well as donations and proceeds from sales of donated property, as long as such proceeds are used in the reconstruction of property belonging to the religious organization and for charitable purposes. All other income is taxed at the regular corporate rate.

---

The Law on Citizen Associations and Foundations provides that all associations and foundations may claim tax exemptions provided for by law. However, the Law on Profits Tax applies to all legal entities that realize profits, and does not provide any exemption for NGOs. The tax laws provide only for reduction in the tax base of certain legal entities, depending on the source of their income and the purpose of their expenditures. For example, accelerated depreciation is allowed for, among other things, equipment for preserving natural and human environments. The only organizations exempt from tax under all circumstances are enterprises for professional rehabilitation and companies that employ disabled people to work under special conditions, both in manufacturing and in services.

SURVEY OF TAX LAWS AFFECTING NGOS IN CEE

EXHIBIT B: NGOs ENTITLED TO CLAIM EXEMPTION FROM INCOME OR PROFITS TAXES

<b>Poland</b>	X	X	X	X
<b>Romania</b>	X		X	
<b>Slovakia</b>				
<b>Yugoslavia</b>			X	X

EXHIBITS

---

X Culture, environmental protection, support for infrastructure development in rural areas, health care and social services, occupational and social rehabilitation of the disabled.

---

Public institutions, organizations for the blind or handicapped, cooperatives, and private condominiums.

---

All types of NGOs, including associations, foundations, non-investment funds, and nonprofit organizations providing generally beneficial services, are entitled to claim exemptions from tax.

---

The corporate tax law does not specifically address NGOs as exempt. Instead it refers to "other legal entities" which the law exempts from tax. These primarily include associations, legacies, foundations, religious and sports organizations.

SURVEY OF TAX LAWS AFFECTING NGOS IN CEE

EXHIBIT C: TAXATION BY INCOME SOURCE: GRANTS AND DUES

COUNTRY	GRANTS
<b>Albania</b>	Not taxed
<b>Bosnia</b>	Not taxed
<b>Bulgaria</b>	Not taxed
<b>Croatia</b>	Not taxed if used to finance not-for-profit activities
<b>Czech Republic</b>	Not taxed
<b>Estonia</b>	Legal entities do not pay tax on income, only distributions.
<b>Hungary</b>	Not taxed
<b>Latvia</b>	Not taxed if the payments are made by organizations on a list established by the Ministry of Finance (public organizations, foundations, religious organizations.)
<b>Lithuania</b>	Any funds received as charity or support pursuant to programs under the Charity and Support Law and membership fees are exempt from taxation. All other income is subject to the reduced corporate income tax rate of 5%. For religious organizations, donations and proceeds from the sale of donated property (so long as the proceeds are used in the reconstruction of property used by the religious organization and for charitable purposes) are excluded from taxable income.
<b>Macedonia</b>	The Law on Profit Tax provides that income of a legal entity from a budget or fund assigned for performance of its activity will not be included in the tax base for purposes of calculating the profit tax. Although it is unclear, this provision is currently understood to exclude from tax receipt by a legal entity of funds from a central or local government budget, or of funds such as donations, grants, or membership fees that are designated for performance of a statutory activity. As a practical matter, therefore, at this time, grants, donations, and membership fees are not subject to tax.

EXHIBITS

---

**MEMBERSHIP DUES**

---

Not taxed

---

Not taxed

---

Not taxed

---

Not taxed if the organization's statute provides for membership fees

---

Must be reported but are tax exempt

---

See Grants. A legal person's admission and membership fees to associations are considered taxable distributions unless directly related to taxpayer's entrepreneurship.

---

Not taxed

---

Not taxed, same as grants

---

Same as grants

---

See Grants.

---

SURVEY OF TAX LAWS AFFECTING NGOS IN CEE

---

EXHIBIT C: TAXATION BY INCOME SOURCE: GRANTS AND DUES

<b>Poland</b>	Exempt if used for specified public benefit purposes.
<b>Romania</b>	Not taxed
<b>Slovakia</b>	Not taxed
<b>Yugoslavia</b>	Not taxed, provided that they are not related to the organization's economic activities.

---

EXHIBITS

---

Same as grants

---

Not taxed

---

Membership contributions collected by associations of legal entities, professional chambers with voluntary membership, civic associations including trade union organizations, political parties, and political movements are exempt.

---

A corporation may deduct membership fees up to 1% of its total income. However, membership fees to political parties are not exempt.

---

COUNTRY	BUSINESS ACTIVITY ALLOWED
<b>Albania</b>	Yes. Non-profit organizations (foundations, associations, and centers) may engage in economic activities in order to realize their statutory purposes. The economic activities must 1) conform to the organization's purposes, 2) be declared as a source of income, and 3) not be its primary purpose.
<b>Bosnia</b>	Yes. In the Fed. of BiH, a foundation or fund may engage in related economic activities. Income generated from such activities must be used only to advance an organization's statutory goals. An association may not engage in such activities except through a separate business entity. In the Rep. of Srpska, foundations, funds, and legacies may engage in related and incidental economic activities as provided in their statutes. The law does not specifically address whether and under what conditions an association may engage in related economic activities. An association may establish a separate company to carry on economic activities.
<b>Bulgaria</b>	Yes. Foundations and associations may engage in economic activities that are related to a main statutory activity provided that the revenue earned is used to achieve statutory purposes.
<b>Croatia</b>	Associations, institutions, and corporations may engage in economic activities provided that they use the profit generated only to accomplish their statutory goals. Foundations and funds may engage in economic activities in order to increase the value of property, which may only be used for achievement of statutory goals.
<b>Czech Republic</b>	Generally permitted for all NGOs except foundations and funds, which are prohibited from engaging in economic activities, and political parties and movements,

---

**EXEMPTION OF BUSINESS INCOME COMMENTS**

---

None.

---

In the Fed. of BiH, income from business activities is not taxed. In the Rep. of Srpska, income generated from the organization's related economic activities is exempt if it does not exceed 25% of the organization's total income.

---

None, income from economic activities is always taxed.

NGOs pay a 20% profit tax (15% for profits not exceeding 50,000 BLG) calculated and paid after payment of the 10% municipality tax. Pension and healthcare funds, universities, state and municipal health facilities are entitled to 80% remittance on income directly connected or auxiliary to main activity.

---

Income from economic activities may be subject to tax if the Tax Administration finds that exempting that income would result in the NGO's gaining an "unjustified privileged position in the market." Those NGOs found to have obtained such a position are taxed on the income from economic activities at a 20% rate. The law does not distinguish between regular and occasional profit-generating activities.

The new Corporate Income Tax Law has been in effect only a few months and it is not yet clear how the Tax Administration will interpret the term "unjustified privileged position in the market," or under what conditions an NGO will be considered to have gained such a position.

---

Yes, for NGOs other than foundations and funds. Profits of less than CK 100,000 are exempt. NGOs may deduct 30% from their tax base up to CK 3 million if tax savings

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

	whose economic activities are limited. Public benefit corporations may engage in only those economic activities that serve to render use of property and resources more efficient.
<b>Estonia</b>	Yes. Generally, foundations and non-profit associations are permitted to engage in any activity that corresponds to the purposes stated in their Articles of Association.
<b>Hungary</b>	NGOs are generally entitled to engage in business activities as long as 1) they are not established for the primary purpose of pursuing business activity; 2) in the case of civil society organizations and foundations, they only pursue business activity in order to realize the economic conditions for the achievement of their objectives; 3) in the case of foundations, the activity does not jeopardize their purposes; and 4) in the case of public benefit companies, they do not distribute profits to members.
<b>Latvia</b>	Yes
<b>Lithuania</b>	No
<b>Macedonia</b>	No. Associations and foundations must found joint stock companies or limited liability companies to engage in economic activities to finance their operations.
<b>Poland</b>	Yes
<b>Romania</b>	Both foundations and associations may engage directly in economic activities provided that they are accessory, and are related to the primary purpose of the or-

EXHIBITS

---

are used to cover expenses from or advance tax exempt activities. Foundations are exempt only on income from foundation property. accounted for and reported separately.

---

Nonprofit enterprises pay tax on expenses (distributions) that are unrelated to their statutory goals.

---

Yes. Income from the sale of assets or inventories serving solely public benefit or, for non-PBOs, statutory purposes, is not taxable. Income from business activities that does not exceed a specified threshold amount for each type of NGO is exempt. Non-public benefit organizations may exempt business income that does not exceed 10% of total income or 10 million HUF. Public benefit organizations are exempt for business income that does not exceed 10% of total income or 20 million HUF, and, for “prominent” public benefit organizations, 15% of total income. Public benefit corporations are taxed at a proportional rate on income above the 10% threshold.

---

Yes, for income from related business activities. Income from business activities unrelated to the NGO’s purpose is taxable.

---

None, separate companies pay tax like other business companies.

---

Yes, if used for specified public benefit purposes.

The exemption does not apply to income from the production of alcoholic beverages, tobacco, fuel, electronic devices, or production or trade of precious metals or goods made therefrom.

---

Generally, none. Foundations and associations pay profits tax of 25% on profits from business activities. Only profit from the delivery of goods or provision of ser-

	<p>ganization. Foundations and associations may also found commercial companies, provided that all revenues from the companies' activities are reinvested in the company or used to achieve the purposes of the organization.</p>
<p><b>Slovakia</b></p>	<p>Yes, except for foundations and noninvestment 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.</p>
<p><b>Yugoslavia</b></p>	<p>Yes</p>

vices resulting from specific activity carried out by organizations of the blind and associations of the handicapped are exempt from profit tax.

---

Income from related business activities is exempt from tax if a) the business activity is not conducted at a price advantage in competition with for-profit entities, and b) the income is proportionate to costs. The determination of proportionality is made by comparison to the income/cost ratios of "other persons." Income from related activities up to 300,000 SK is exempt.

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.

---

Profits from economic activities are exempt from tax if they: a) do not exceed 300,000 dinars; b) are not distributed to the founders of the organization, employees, or members of the management board or people affiliated with them; c) NGO's salaries do not exceed double the amount of the average salary paid in the field of the economic activity in which the NGO is engaged.

---

<b>COUNTRY</b>	<b>INVESTMENT INCOME</b>
<b>Albania</b>	Foundations and associations apparently may have passive investments provided that earnings are used to support their main activities.
<b>Bosnia</b>	An organization may generate income from dividends, copyrights, licensing, real estate, interest and other passive investments. Associations may also generate profit from passive investments, although the law does not specifically address this point. All passive investment income is taxed at the general corporate rates. In the Fed. of BiH, income subject to taxation which is reinvested in manufacturing and housebuilding is 100% tax exempt. Income reinvested in other economic activities is 75% tax exempt. In the Rep. of Srpska, income generated from the sale of shares and other securities which an organization held in its portfolio for more than 12 months is 50% deductible. Income invested in the purchase of securities is deductible up to 30% if the securities are held for more than 12 months. Income invested in the purchase of equipment deemed necessary for manufacturing is deductible up to 30% if it is not resold within five years.
<b>Bulgaria</b>	No exemption from tax for passive investment income. Profits tax is reduced for all legal entities, including NGOs, by 10 percent of contributions for establishment or for increase in company capital used for modernization or reconstruction of long-term tangible assets. Reduction applies only in municipalities with higher unemployment rates as set forth in an annex to the law. When this reduction exceeds the amount of tax, the variance is deducted over the next five years (if the investments and expenses are made over more than one tax year).
<b>Croatia</b>	Passive investment income is taxed only if the organization is otherwise subject to the corporate income tax, in which case, the income is included in the tax base and taxed at the 20% rate.
<b>Czech Republic</b>	Income from registered endowment of foundation is exempt from tax.
<b>Estonia</b>	Dividends and other profit distributions are subject to a tax of 26/74 on the legal entity making a distribution to non-profit associations and foundations not entered on government list. Such distributions are not taxed if they are to entities on the list (essentially public benefit organiza-

EXHIBITS

<b>LIMITS ON INVESTMENTS</b>	<b>DISTRIBUTION RULES</b>	<b>ACCUMULATION RULES</b>
None	None	None
None	None	None
None	None	None
Not specifically addressed by law.	Not specifically addressed by law.	Not specifically addressed by law.
Tax exempt endowments limited to money kept in special accounts with banks, state issued or guaranteed securities, real estate, income-producing art, authors' or patent rights.	None	None
None	None	None

SURVEY OF TAX LAWS AFFECTING NGOS IN CEE

EXHIBIT E: TAXATION BY INCOME SOURCE: INVESTMENTS

	tions that meet certain other criteria.)
<b>Hungary</b>	Public benefit organizations are exempt on interests or yields from deposits or securities. Non public benefit organizations and public benefit companies are exempt on part of interest or yields in proportion of targeted or public purpose activities to total income.
<b>Latvia</b>	Investment Income is not defined. There are no tax benefits for investments.
<b>Lithuania</b>	Taxed at preferred 5% rate.
<b>Macedonia</b>	NGOs may generate income from investments directly, and are not required to form separate companies to receive income on interest, dividends, and rents. However, they are taxed on investment income at the 15% rate. An NGO, like any other taxpayer, may invest in securities to generate income. Dividend income is not included in the tax base if it has already been taxed to the issuer of the security, and the issuing company is a resident of the Republic of Macedonia, but will be taxed to non-resident companies. If an NGO establishes a business subsidiary, that subsidiary pays profits tax on any dividends it pays to the NGO. However, the NGO, as the parent entity, does not pay tax on the dividends.
<b>Poland</b>	Investment income is permitted, and is exempt if used for specified public benefit purposes.
<b>Romania</b>	Interest and dividend income is exempt from tax. The law does not provide for endowments.
<b>Slovakia</b>	Interest on bank accounts is taxed at 15%. Dividend or stock earnings are taxed at 29%.
<b>Yugoslavia</b>	Under Serbian Law, income earned on an endowment is exempt. Income generated from the sale of government bonds is exempt. Dividends are taxed at a rate of 20%. Income from the sale of shares and other securities, copyrights, real estate, and land held for more than 12 months is accorded a 50% tax exemption. In Montenegro, all passive investment income is tax exempt.

EXHIBITS

---

---

Foundations must have sufficient funds to carry out their objectives in order to register. Economic activities may not jeopardize the realization of the foundation's purposes. Otherwise, foundations may manage funds independently and without legal restrictions.	None	None
---	------	------

---

None; NGOs can invest their finances in any enterprise using their own discretion.

---

Each type of NGO is subject to a special law that governs all of its activities, including investment activities. In general, there are no specific prohibitions against particular investments — only prohibitions against engaging in trades or businesses.	None	None
---	------	------

---

None	None	None
------	------	------

---

---

Same	None	None
------	------	------

---

None	None	None
------	------	------

---

None	None	None
------	------	------

---

None	None	None
------	------	------

---

COUNTRY	REAL ESTATE	GIFT
<b>Albania</b>	NGOs, like all individuals and legal entities, are subject to taxes on buildings and agricultural land. International organizations and organizations dealing with natural catastrophes designated by Council of Ministers are exempt.	None
<b>Bosnia</b>	In both the Fed. of BiH and the Rep. of Srpska, non-profit organizations appear to be exempt to the extent that the real estate is used to advance their statutory goals.	In the Federation, gifts to and inheritances by organizations, including foundations and associations, are tax exempt to the extent that they are used to advance an organization's statutory goals. The same rule applies in the Rep. of Srpska, although it is not clear whether the exemption applies to associations.
<b>Bulgaria</b>	Certain organizations, <i>e.g.</i> , the Bulgarian Red Cross and community centers, are entitled to tax privileges. Buildings used by higher schools, the Bulgarian Academy of Science, public sports facilities, historical buildings, cultural monuments, museums, galleries, and libraries are tax exempt. Others pay tax at rate of .15% of assessed value.	The Bulgarian Red Cross, national organizations for the disabled, and funds created to assist victims of natural disasters and for the restoration of historical and cultural monuments are exempt from gift tax. Non-profit entities are not taxed on gifts received or granted pursuant to the purposes stated in their founding docu-

EXHIBITS

<b>ESTATE</b>	<b>VAT</b>	<b>OTHER</b>
None	Humanitarian aid in the form of: goods or services for medical or dental services; for the protection or care of children or old people; educational, cultural, or sport services; or services by religious or philosophical organizations for the purpose of spiritual welfare are exempt from VAT provided that they are not resold. Associations and foundations are not required to register for VAT purposes. The applicable VAT rate is 20%.	
See Gifts.	Turnover taxes: As a general rule, goods donated to the Red Cross, other humanitarian organizations, and religious organizations are tax exempt, as are purchases of equipment and raw materials used to carry out related economic activities. This exemption does not apply to oil, oil derivatives, cars, tobacco, cigarettes, beer, alcohol, or coffee. Services rendered by humanitarian organizations that are related to statutory goals are also exempt. In the Fed. of BiH, tax rates range between 10% and 20% on goods and 10% on services. In Rep. of Srpska, tax rates are 10% + 2% and 18% + 2% for goods and 10% + 2% for services.	
Property inherited by the state, municipalities, the Bulgarian Red Cross, community centers, and other non-profit entities are not subject to tax.	VAT exemptions are not granted based on type of organization, except that transactions by civic organizations are exempt if the object of the transaction is received as a donation. Certain transactions are exempt, including those involving performance of educational services, health services, sale of tickets for concerts, sports competitions, museums, zoos, botanical gardens, art theatres and galleries, and services related to treatment of hazardous waste, as well as donations to non-profit organizations. Import transactions for foreign aid	

ments, nor are gifts received by community centers.

**Croatia**

The Red Cross and similar humanitarian organizations, funds and foundations are tax exempt. NGOs that receive gifts from Republic of Croatia or local governments, or receive real estate as means of restitution or for other reasons connected with the Homeland War, do not pay tax on real estate. For real estate transfers after December 31, 1997, VAT applies instead of real estate tax.

Inheritances and gifts in cash and in kind with market value in excess of 50,000 HRK are taxed at 5%. The Red Cross and other humanitarian organizations, funds, foundations and associations, are exempt from tax.

**Czech Republic**

Real estate owned by religious organizations, associations, public benefit corporations, and foundations with endowments is exempt.

Gifts and bequests to foundations, funds, public benefit, and sports organizations are tax exempt.

**Estonia**

No exemptions. Land tax of between 0.5% and 2% taxable value imposed on owners and certain users.

None

EXHIBITS

---

to state, municipalities, educational, health, scientific, cultural, and social organizations, and the Bulgarian Red Cross, are also exempt. The VAT rate is 20%.

---

See Gifts.

Political parties, trade unions and trade chambers, religious organizations and the Red Cross are VAT exempt. Goods necessary to accomplish statutory goals purchased by PBOs and gifts by foreign organizations are exempt. Imports of humanitarian aid are also VAT exempt. Domestic humanitarian organizations have status of final consumers and are thus not included in the VAT system. International humanitarian organizations do not pay VAT for goods and services purchased for official use and private use of staff if an agreement is signed with the government, and may be exempt from VAT on purchase of goods within Croatia. New amendments to the VAT law provide for tax holidays for NPOs that receive foreign donations of goods or services, as well as for in-country purchases financed by foreign aid. In addition, independent artists and artistic organizations are now exempt from the VAT system. Scientific journals are zero-rated. VAT rate is 22%.

A new regulation exempts from customs duties and taxes all foreign donations to PBOs.

See Gifts.

Goods and services related to a not-for-profit organization's statutory activities are exempt, as are operators of public television and radio broadcasters, educational activities, and providers of health care and social services under a special regulation. Certain goods and services, *e.g.*, health care services and equipment for the handicapped, are subject to a lower VAT rate of 5%. VAT rate is 22%.

Foundations, funds and public benefit corporations are exempt from any fees connected with registration (incorporation) deeds.

None

Goods not subject to excise tax are exempt from VAT if they are received as state foreign aid or pur-

**Hungary**

Civil society organizations, foundations, public chambers and public benefit companies are conditionally exempt from local building and land taxes, provided that they did not have to pay corporate income tax in the previous calendar year.

Grants for public benefit purposes are exempt. The pre-tax profit of public benefit organizations is increased by the amount of the donation if the organization has public debts at the end of the tax year. Pre-tax profit is partially increased where income from business activities exceeds tax-exempt degree.

**Latvia**

The following legal persons or property are exempt from real estate tax: religious organizations, public cultural associations, and other public organizations; immovable property which is used for environmental and fire protection measures; and immovable property which is used for health protection, sports and physical culture, public education and cultural needs. Public organizations pay real estate tax on that part of immovable property which is used in business.

No exemptions

**Lithuania**

The following are exempt from real estate taxes: charity and support funds, budgetary institutions, community organizations, cemetery organizations, associations for the benefit of handicapped persons, educational institutions, social welfare institutions, environmental protection organizations, religious organizations.

Gift and Estate tax only applies to physical persons who receive inheritances or gifts. If a not-for-profit organization receives a bequest or gift, it is considered income from non-business activities and will only be ex-

EXHIBITS

---

chased with money received as state foreign aid, or granted as state foreign loans. VAT rate is 18%.

---

See Gifts.

No taxable persons are exempt from VAT. Taxpayers whose actual and expected annual income from economic activities is less than 2 million HUF may elect tax-exempt status at the outset of the tax year. Sales of certain products and services are exempt, including health care, social care, organization of scientific events, public radio and TV, education, hostels and dormitories, libraries, and nonprofessional sports. Zero-rating applies to exports, pharmaceuticals, books used in public education, products for the blind, and baby naps. The VAT rate is 25%, although there is a preferential rate of 12% for certain products.

Civil society organizations are exempt from paying local communal tourism and business taxes under same conditions as for real estate taxes. They are also exempt from certain fees for court and administrative proceedings, including registration, gift, and inheritance fees.

---

No exemptions

No legal persons exempt from VAT. Certain goods and services are exempt, including those offered by pensions for the elderly, social care or rehabilitation centers, preschool fees, meals offered by prisons and reformatories, tuitions, professional training fees, library services, fees for certain cultural events, and medical services. Exports are zero-rated. The VAT rate is 18%.

NPOs are typically exempt from paying the corporation name tax.

---

See Gifts.

No specific persons are exempt from VAT. Goods imported as charity are exempt from import VAT. Specific goods and services are exempt from VAT, including social services rendered to children or the elderly, educational services provided by registered institutions of learning, certain noncommercial cultural services, cultural landmark restoration and conservation

		empt if the laws governing tax-exempt income apply. Otherwise, it is subject to the 5% income tax.
<b>Macedonia</b>	The Law on Property Tax exempts buildings and land used for educational, cultural, scientific, social, health care, humanitarian and sports purposes, except those buildings or parts of buildings and land that are economically exploited or leased; buildings where protective workshops are located; buildings and land owned by the Macedonian Orthodox Church and other religious organizations, or used for performance of religious rituals, or as a residence for its officials, except if they are used for economic purposes; buildings and offices for business purposes used for the performance of the taxpayer's activity, except administrative buildings; and buildings and land for missions owned by international organizations, subject to reciprocity. NGOs are not exempt from the tax on transfer of real estate and the rights thereto.	The following are exempted from taxes on inheritance and gifts: state organs, organs of the local self-government, organizations of the Red Cross, humanitarian and social institutions, scientific, educational, cultural institutions and religious communities, for gifts received in the form of movable or immovable property, financial resources, and claims.
<b>Poland</b>	Associations engaged in certain activities for the benefit of youth ( <i>i.e.</i> , education, sports, recreation, science) are exempt to the extent real estate is not used in business activities. Other organizations pay tax in accordance with general rules, although the tax on plots and buildings not used for business activities is relatively low.	Only natural persons, not legal entities, pay gift and inheritance taxes. NGOs that receive gifts or inheritances are exempt to the extent that these are used for specified public benefit activities.
<b>Romania</b>	Buildings housing public institutions, historical, architectural or archaeological monuments, museums or memorials, except space used for economic activities, build-	None

## EXHIBITS

---

services, etc.  
VAT rate is 18%.

---

See Gifts.

NGOs generally are not exempt. Certain cultural institutions, botanical gardens, zoos, parks, archives, and documentation centers are relieved from VAT. Some goods or services are taxable under a reduced tax rate of 5%, *e.g.*, publication of brochures and periodicals. Goods given as gifts by foreign donors to domestic public institutions or to registered domestic humanitarian not-for-profit organizations and non-governmental organizations without compensation are exempt from VAT. NGOs may claim a VAT refund for goods transferred abroad and used there for humanitarian, charitable, or educational purposes under the conditions set forth in Art.47 of the VAT law. NGOs may seek VAT rebates on goods imported or purchased on certain conditions.

---

See Gifts.

No specific persons are exempt from VAT. Certain goods and services are exempt, including services in the fields of scientific, technical, and economic information, research and development, education, health protection and social welfare. Other goods and services are accorded a preferential 7% rate; these include hearing aids, pharmaceutical products, certain types of medical and sanitary articles, rehabilitation products, and Braille devices. VAT rate is otherwise 22%.

---

None

Associations are subject to VAT only if they are performing economic activities. Nonprofit organizations are exempt from VAT for all social and charitable activities,

ings used for religious cults, those belonging to testamentary foundations with missions relating to promoting national culture institutions or humanitarian, social or cultural actions are exempt. Real estate taxes can be increased or decreased by up to 50% by decisions of county councils.

---

**Slovakia**

Exemptions from feu duties and construction and apartment taxes are available for property devoted to various public purposes as long as the property is not used for business activities, including rentals.

Gifts are exempt from the gift tax if they are used to develop foundations, churches and religious communities, culture, schools, science, health care, school care, ecology, physical training and sport, as well as inland communities, state archives, and humanitarian and charity unions. Gifts must be to entities specified by law to be exempt.

---

**Yugoslavia**

Not-for-profit organizations are exempt from real estate taxes insofar as the real estate is used to advance statutory goals.

Pursuant to the Serbian Law on Legacies and Foundations, gifts to or inheritances by legacies and foundations are exempt from turnover taxes. In Montenegro, this exemption also extends to gifts to or inheritances by associations.

## EXHIBITS

---

for activities in the civic, political, or religious fields; if they are organizations for the blind and disabled, or are health services organizations; trade unions and public institutions are exempt for administrative, social, educational, national defense, public order, state security, cultural, or sports activities. Zero rate applied to goods and services for projects on Romanian territory financed by foreign governments, international institutions and NGOs, and to goods and services for projects financed by PHARE. Certain publications entitled to preferential 11% rate.

---

Bequests are exempt from the legacy duty under same conditions listed under "Gift Taxes."

Legal entities not established to conduct business do not register as VAT payers. Nonbusiness entities that conduct economic activities may become VAT payers if they have business licenses and their turnover from business activities exceed 750,000 SK. Activities exempted from VAT include education, training, scientific, health care, and social care services. VAT rates are 10% and 23%.

---

See gifts.

Turnover taxes: As a general rule, turnover of goods is taxed at a rate between 9% to 20% and delivered services are taxed at a rate of 9% in Serbia, this includes fees charged for courses offered by NGOs. In Serbia, goods imported for humanitarian aid by the Red Cross, or domestic goods that are donated to the Red Cross, are exempt, as are services provided by the Red Cross and religious organizations. Purchases of equipment and materials by associations engaged in economic activities necessary to carry out statutory purposes are also exempt. In addition, fees charged for cultural and sporting events organized by NGOs are tax exempt. In Montenegro, NGOs appear to be exempt from taxes on any goods or services to the extent they are necessary to carry out statutory goals.

<b>COUNTRY</b>	<b>BUSINESS DONATIONS</b>
<b>Albania</b>	For those who pay profit taxes, a sponsored sum may be deductible up to 4% of taxable income. For those who pay small business taxes, a sponsored sum is deductible up to 1% of taxable income.
<b>Bosnia and Herzegovina</b>	In Fed. of BiH, donations are deductible up to 0.5% of business' income. Contributions to political parties are tax deductible if they do not exceed 0.1% of a business' income. In Rep. of Srpska, donations are deductible up to 0.5% of income, and donations to NGOs engaged in scientific activities are deductible if they do not exceed 5% of income. Contributions to political parties are not deductible.
<b>Bulgaria</b>	Foundations and Associations are entitled to deduct up to 5% of income after reducing their financial base by the amount of qualifying contributions. Donations must be made from capital reserve fund or account of owner.
<b>Croatia</b>	May deduct donations to organizations pursuing cultural scientific, educational, health, humanitarian, sport, religious, and other activities up to 2% of income generated in previous year. Threshold may be raised on approval of the competent ministry. Businesses may deduct as business expenditures sums expended on sponsorship if they receive a reciprocal benefit in the form of promotion.
<b>Czech Republic</b>	May not deduct more than 2% of income and must donate at least 2000 CZK to qualify for the deduction. Donations must be given to municipalities or not-for-profit organizations headquartered in the Czech Rep.
<b>Estonia</b>	The income tax on distributions is imposed, with respect to charitable contributions to associations and foundations on the government's list, on the amount exceeding 2% of total remuneration paid to employees in the previous calendar month. This sum may be recalculated at year end for those organizations that do not make charitable distributions each month. Donations to NPOs not on the list are taxed at the rate of rate of 26/74.

EXHIBITS

---

**INDIVIDUAL DONATIONS**

**NOTES**

---

Individuals who are “traders” qualify for deductions on the same basis as discussed for businesses. Otherwise, none.

Sponsors must be persons defined as “traders” under the Albanian Commercial Code. Sponsorship may be for public and social purposes including: humanitarian aid, sports, ecological activities, literature, and science. Sponsorship must be documented (i.e. by contract, certificates of performance.)

---

In Fed. of BiH, donations are 100% deductible. In Rep. of Srpska, donations are deductible up to 10% of income.

In Rep. of Srpska only donations or contributions to humanitarian organizations that are registered are tax deductible.

---

May deduct up to 5% of income for qualifying donations.

---

May deduct donations to organizations pursuing cultural scientific, educational, health, humanitarian, sport, religious, and other activities up to 2% of income generated in previous year. Threshold may be raised on approval of the competent ministry.

---

Deductible up to 10% of income. To qualify, an individual must donate at least 2% of income, but not less than 1000 CZK. Donations must be given to municipalities or not-for-profit organizations headquartered in the Czech Rep.

A proposal to extend the 2% maximum to 4% is pending

---

Individuals may deduct documented gifts and charitable contributions to organizations on the government list or to certain agencies of the state and local governments, managers of nature reserves, or universities of public law. Deduction is limited to 5% of taxable income.

Public benefit organizations may receive tax-benefited contributions if they are on the government approved list. Conditions for inclusion on the list include compliance with the nondistribution constraint, limitation of administrative expenses, use of entrepreneurship income solely for statutory purposes, and lack of tax arrears.

<b>Hungary</b>	Corporations, unincorporated partnerships, and individual entrepreneurs may deduct donations up to 20% pre-tax profits. In the case of donations to “prominent” PBOs, the deduction is 150% of the donation up to 20% of pre-tax profits.
<b>Latvia</b>	90% of the contribution can be deducted from gross income for tax purposes, but only up to 20% of the wholly assessed tax liability. If the activities of the public organization do not correspond with its aims, the tax benefits are rescinded according to the scheme provided by the Cabinet of Ministers.
<b>Lithuania</b>	Businesses may deduct from taxable income two times the amount of the donation up to 40% of taxable income. Deductions are permitted only if the contributions were made pursuant to a particular program under the Charity and Support Law. There are no carryforwards of unused donations.
<b>Macedonia</b>	Expenses for donations and grants for scientific, humanitarian, cultural, educational, health care, religious, and amateur sports purposes may be deducted from the taxpayer’s tax base up to 3% of a business’ gross income, provided the donations and grants were made to public organizations financed by the state budget or the Red Cross of the Republic of Macedonia.
<b>Poland</b>	Businesses may deduct (1) up to 10% of taxable basis for donations to organizations whose activities include charity, religion, environmental protection, fire protection, and housing investment by local government, and (2) up to 15% of taxable basis for those whose activities include science, education, culture, sports, physical exercise, rehabilitation, health and social care, and support for infrastructure in rural areas.
<b>Romania</b>	Businesses may deduct up to 5% of their income for donations for qualifying purposes (religious, education, human rights, science, etc.)
<b>Slovakia</b>	May deduct value of gifts in excess of 500 SK given to municipalities or other legal entities. The deduction may not exceed 10% of the tax base.
<b>Yugoslavia</b>	Donations of a corporation to public benefit, sports, and religious organizations are tax deductible to the extent that they do not exceed 3% of the corporation’s total income.

EXHIBITS

---

An individual may take a credit for 30% of a donation to a PBO or public interest commitment. The credit may not exceed 50,000 HUF. In the case of donations to “prominent” PBOs, the tax credit is 30% of the donation, up to 100,000 HUF.

---

Same as businesses.

Only NGOs with permission of the Ministry of Finance may receive tax-benefited contributions. Entry on the Ministry’s list requires an application with certain financial records, recommendations, and other documents, and must be renewed annually.

---

Individuals are entitled to deduct charitable contributions without any limitations.

A draft law is being prepared for 2001, which will permit individuals to direct the tax inspectorate to pay up to 2% of their income taxes to a PBO or to a religious organization, but will eliminate deductibility of contributions.

---

No deductions.

---

Same as businesses

Donations are not deductible if made for the benefit of natural persons, or entities engaged in the production of alcoholic beverages, fuels, tobacco, electronic devices, or in the production or trade of precious metals.

---

Contributions are not deductible.

---

May deduct contributions in excess of 2% of tax liability or 1000SK. The total deduction may not exceed 10% of total tax liability.

Effective 1/1/2002, taxpayers may designate 1% of taxes to be paid to any legal or natural person.

---

Donations of an individual to public benefit organizations are tax deductible to the extent they do not exceed 10% of their income subject to taxation.

## **SUMMARY OF TAX SURVEYS BY COUNTRIES**

---

### **ALBANIA**

In 2001, the Albanian Parliament passed new legislation governing the registration and operation of NGOs. The legislative package consists of the Law on Nonprofit Organizations, the Law on the Registration of Nonprofit Organizations, and amendments to the Civil Code. The new legislation significantly changed the rules relating to, *e.g.*, permissibility of economic activities. However, the tax laws have not been amended since the enactment of the new framework legislation to take account of these new provisions.

Generally, the profit tax rate is 30%.

#### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

Legal entities engaged in religious, humanitarian, charitable, scientific and educational activities may claim exemption from the profit tax, provided that their property or profits are not used for the benefit of their founders or members.

#### **B. Taxation by Income Source**

*Grants and membership dues.* Grants and membership dues are exempt from taxation.

*Economic/business activity.* The new Law on Nonprofit Organizations provides that a nonprofit organization may engage in economic activities in order to achieve “the purpose and object of its activity,” as well as to manage and maintain its property. Economic activities may not be the organization’s primary purpose, must be in compliance with the organization’s purposes, and must be declared as one of its sources of income. As noted, the tax laws have not been amended since the enactment of the new law, and presumably, since the tax laws currently do not provide for exemption of income from business activities by NGOs, such income will be taxed on the same basis as the business income of other legal entities.

*Investments.* Foundations, associations, and centers are explicitly permitted under the new NGO law to earn income from their assets, provided that they earn such income and incur expenses only to realize the purpose and object of their activity and to manage and maintain their property. This income is subject to tax.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* NGOs, like all individuals and legal entities, are subject to taxes on buildings and agricultural land. International organizations and organizations dealing with natural catastrophes that are designated by the Council of Ministers are exempt.

*Gifts and estates.* There is no gift or estate tax in Albania.

*VAT.* The applicable VAT rate is 20%. Humanitarian aid is exempt from VAT, provided that it is not resold, if it is in the form of goods or services for medical or dental services; for the protection or care of children or the elderly; educational, cultural, or sport services; and services by religious or philosophical organizations for the purpose of spiritual welfare. Associations and foundations are not required to register for VAT purposes.

### **D. Tax Benefits for Donations by Individuals and Corporations**

All natural and legal persons whose profits are taxed in accordance with Law No. 7677, March 3, 1993, "On Profit Tax," may claim as a deduction any sponsorship amount up to four percent (4%) of their pre-tax profits. The deduction increases to ten percent (10%) for those natural and legal persons who provide sponsorship to press and publishing activities. Whether domestic or foreign, all legal persons that carry on a for-profit activity and are thus subject to thirty percent (30%) tax on their profit qualify for such deductions. In addition, all natural and legal persons whose profits are taxed in accordance with the Law on "Taxation of Small Businesses" may claim as a deduction any sponsorship amount up to one percent (1%) of their pre-tax profits. All natural persons who carry out a private, independent for-profit activity such as trading goods, or offering professional services including health and legal services, and who pay tax on their income qualify for this deduction.

Only "merchants" as defined by Albanian law can be sponsors. Only social and public activities may be the subject of sponsorship. Such activities

include, but are not limited to, humanitarian, cultural and artistic activities; educational and instructional activities; ecological activities; works of science, literature and the arts; encyclopedias; press and publishing activities. Sponsorship must be documented (i.e. by contract or certificates of performance) in order for a sponsor to receive tax benefits.

## **BOSNIA AND HERZEGOVINA**

The Republic of Bosnia and Herzegovina is made up of two entities under the Dayton Agreement, the Federation of Bosnia and Herzegovina and the Republic of Srpska. Tax regulations fall within the ambit of the entities' jurisdiction. This summary will refer to Bosnia & Herzegovina where the laws of the two entities are essentially the same. Where the laws diverge in their treatment of an issue, the laws of the Federation and of the Republic of Srpska will be discussed separately.

The corporate income tax rate in BIH is 30%, while in RS it ranges from 10% to 20%.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

In the Federation all types of NGOs are exempt from corporate income tax. In the Republic of Srpska, "institutions (legal entities permanently established to render services in the fields of education, science, sport, medicine, social care, and other fields falling within the government's responsibility) and legal entities that engage in economic activities other than manufacturing, may claim tax exemptions available under law. Enterprises for professional rehabilitation and employment of disabled persons are exempt. Other legal entities may also be eligible for a reduction in their tax bases to the extent they engage in certain activities, e.g., protection of the environment.

### **B. Taxation by Income Source**

*Grants and membership dues.* Both grants and membership dues are tax exempt.

*Economic and business activities.* In the Federation, a foundation or fund is explicitly permitted to engage in related economic activities if the income is used solely to support the organization's statutory goals. Asso-

ciations may not engage directly in economic activities, and must conduct any business activities through a separate company. The Federation does not subject NGOs to the corporate income tax, and income from economic activities is therefore not taxed. In the Republic of Srpska, foundations, funds, and legacies may engage in economic activities that are “related and incidental” and provided for in their statutes, as long as the income is used to support statutory goals. The law does not specify whether and under what conditions associations may engage in related economic activities. Associations may, however, establish separate companies to carry on economic activities. Institutions and legal entities engaged in economic activities other than manufacturing are exempt from tax on income generated from related activities provided that such income does not exceed 25% of the organization’s overall income for the fiscal year.

*Investments.* In both the Federation and the Republic of Srpska, an organization may generate income from dividends, copyrights, licensing, real estate, interest and other passive investments. Associations may also generate profit from passive investments, although the law does not specifically address this point. All passive investment income is taxed at the general corporate rates. In the Federation, income subject to taxation that is reinvested in manufacturing or housebuilding is 100% tax exempt. Income reinvested in other economic activities is 75% tax exempt. In the Republic of Srpska, income generated from the sale of shares and other securities which an organization held in its portfolio for more than 12 months is 50% deductible. Income invested in the purchase of securities is deductible up to 30% if the securities are held for more than 12 months. Income invested in the purchase of equipment deemed necessary for manufacturing is deductible up to 30% if it is not resold within five years.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* In both the Federation and the Republic of Srpska, non-profit organizations appear to be exempt from taxes on real property to the extent that the real estate is used to advance their statutory goals.

*Gifts and estates.* In the Federation, gifts to and inheritances by organizations, including foundations and associations, are tax exempt to the extent that they are used to advance an organization’s statutory goals. The same rule applies in the Republic of Srpska, although it is not clear whether the exemption applies to associations.

*VAT.* The VAT has not been introduced in Bosnia and Herzegovina.

*Turnover taxes.* As a general rule, goods donated to the Red Cross, other humanitarian organizations, and religious organizations are tax exempt, as are purchases of equipment and raw materials used to carry out related economic activities. This exemption does not apply to oil, oil derivatives, cars, tobacco, cigarettes, beer, alcohol, or coffee. Services rendered by humanitarian organizations that are related to their statutory goals are also exempt. In the Federation, tax rates range between 10% and 20% on goods and 10% on services. In Republic of Srpska, tax rates are 10% + 2% and 18% + 2% for goods and 10% + 2% for services.

*Other taxes: Personal income tax.* In the Federation, NGO employees are not subject to tax exemptions on their income, which is taxed at a rate of 15%. The Republic of Srpska Personal Income Tax Law provides for a 9% tax rate. However, residents employed by international organizations, which include inter-governmental organizations and foreign NGOs, who receive a salary in foreign currency pay a 200KM tax on the income, regardless of the actual amount of their salary. Since, in practice, the salaries of those employees usually grossly exceed the prescribed threshold, this provision is considered favorable.

*Corporation name tax.* The rules on the taxation of a corporation's name apply to NGOs.

#### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* In the Federation, donations to NGOs engaged in humanitarian, cultural, education, scientific and amateur sport activities are deductible up to 0.5% of a business' income. Contributions to political parties are tax deductible if they do not exceed 0.1% of a business' income. In Republic of Srpska, donations contributions to registered humanitarian organizations are deductible up to 0.5% of income, and donations to NGOs engaged in scientific activities are deductible if they do not exceed 5% of income. Contributions to political parties are not deductible.

*Individual donations.* In the Federation, donations are 100% deductible. In Republic of Srpska, donations are deductible up to 10% of income.

## **BULGARIA**

The Corporate Income Tax Act applies to not-for-profit legal persons as well as other legal persons. The corporate income tax has two components: *Profits Tax* and *Municipal Tax*. The municipal tax rate is 10% and is paid first. Profits tax is calculated and paid after the municipal tax has been paid. The profits tax rates are 20% for taxable profits greater than 50,000 BGL and 15% for taxable profits not exceeding 50,000 BGL.

Under the Tax Procedure Law, all local legal entities must register as taxpayers and receive a tax ID and a tax registration certificate. Tax registration is mandatory regardless of the future activity of the entity. Registration must be done at the local tax authority of the organization's seat.

In September 2000, Bulgaria adopted a new law governing the establishment and registration of nonprofit organizations. That law created a class of public benefit organizations, and provided that the government may support such organizations through tax and other benefits. The tax laws, however, have not at this time been amended to provide such benefits.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

Organizations whose activities include education, charity, health, development or establishment of spiritual values, civil society, engineering, technology, physical culture, the support of the socially vulnerable, that is, those who are needy or handicapped, support of social integration and personal advancement, and the protection of human rights and the environment are considered public benefit organizations under the Law on Legal Persons with Nonprofit Purposes. As noted, the law permits the government to support such organizations through tax and other benefits, but no tax benefits have been provided as of yet. At this time there are no exemptions accorded to any particular type of NGO, although certain limited exemptions and reductions are available for certain sources of income.

### **B. Taxation by Income Source**

*Grants and membership dues.* Membership dues are not taxed as they do not come within the Corporate Income Tax Act's definition of "income." Grants are also tax exempt.

*Economic/business activity.* Foundations and associations may engage in economic activities that are related to a main statutory activity provided that the revenue earned is used to achieve statutory purposes. However, income from economic activities is always taxed. Pension and healthcare funds, universities, and state and municipal health facilities are entitled to 80% remittance on income directly connected or auxiliary to main activity.

*Investments.* There is no exemption from tax for passive investment income. Profits tax is reduced for all legal entities, including NGOs, by 10% of contributions for establishment or for increase in company capital used for modernization or reconstruction of long-term tangible assets. The reduction only applies in municipalities with higher unemployment rates as set forth in an annex to the law. When this reduction exceeds the amount of the tax, the variance is deducted over the next five years (if the investments and expenses are made over more than one tax year).

The Corporate Income Tax provides a tax benefit in the form of a reduced tax rate on distributions of liquidation proceeds and dividends distributed by local legal persons or unincorporated partnerships to local or foreign not-for-profit legal persons. The tax rate on such distributions is 15%, and it is withheld at the source.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* Certain organizations, such as the Bulgarian Red Cross and community centers, are entitled to tax privileges. Buildings used by higher schools, the Bulgarian Academy of Science, public sports facilities, historical buildings, cultural monuments, museums, galleries, and libraries are tax exempt. Others pay tax at a rate of .15% of assessed value.

*Gifts and estates.* Under the Law on Local Taxes and Administrative Fees of 1997, the Bulgarian Red Cross, national organizations for the disabled, and funds used to assist victims of natural disasters and for the restoration of historical and cultural monuments are all exempt from gift tax. Non-profit entities are not taxed on gifts received or granted pursuant to the purposes stated in their founding documents. Gifts received by community centers are also not taxed. Property inherited by the state, municipalities, the Bulgarian Red Cross, community centers, and other non-profit entities is not subject to tax.

*VAT.* The VAT rate is 20%. Persons must register, and are liable for VAT, when their independent economic activity results in turnover ex-

ceeding 75,000 BGL. VAT exemptions are not granted based on type of organization, except that transactions by civic organizations are exempt if the object of the transaction is received as a donation. Certain transactions are exempt, including those involving performance of educational services, health services, sale of tickets for concerts, sports competitions, museums, zoos, botanical gardens, art theatres and galleries, and services related to treatment of hazardous waste, as well as donations to non-profit organizations. Import transactions for foreign aid to the state, municipalities, educational, health, scientific, cultural, and social organizations, the Bulgarian Red Cross, organizations that benefit the disabled, socially poor, and victims of natural disasters, donations for social assistance of the disabled, including technical facilities, donations to orphans, and social care homes are also exempt.

#### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* All foundations and associations may claim tax deductions for contributions made to educational and health institutions, charitable organizations, organizations established for social, environmental, health, research, cultural and sports purposes, religious organizations registered in the country, municipalities, funds for helping the disabled or socially disadvantaged individuals, children with health problems or without parents, and for restoration or preservation of historical and cultural monuments. Foundations and associations are entitled to deduct up to 5% of their income after reducing their financial base by the amount of qualifying contributions. Donations must be made from the capital reserve funds or from the account of the owner. Tax deductions for such donations are only granted on the condition that the persons providing the donations or those who manage them do not benefit from the donations.

*Individual donations.* Individuals may deduct up to 5% of their income for qualifying donations, *i.e.*, those made to educational and health institutions, organizations with charitable, social, environmental, health, scientific, cultural and sports purposes, registered religious organizations, and the Bulgarian Red Cross.

## **CROATIA**

Effective January 1, 2001, Croatia adopted a new Corporate Income Tax Law, which substantially amends the tax treatment of NGOs.

### **A. NGOs Entitled to Claim Exemption from Profits Taxes**

Religious communities, political parties, trade unions and chambers, associations, funds and foundations are entitled to tax-exemptions in accordance with the provisions of the Corporate Income Tax Law.

### **B. Taxation by Income Source**

*Grants and membership dues.* Grants and donations are not taxable as long as the funds are used to finance an NGO's non-profit activities. Membership dues that are not directly related to the purchase of goods or services are also not taxable, provided that the organization's statute contemplates members' fees. For example, if the fees for joining a non-profit tennis association do not depend on how much court time the member receives, then they are not considered as payment for the use of the tennis courts, but rather as membership fees. In order to be exempt, it is not necessary that a membership fee be the same for all members. For example, a membership fee in a professional association could be determined differently for working members, retired members and students. However, it is not permissible to grant benefits relating to the fee amount.

*Economic/business activity.* Associations may engage in economic activities identified in founding documents and necessary to accomplish their statutory goals. However, in practice, associations including economic activities in their registration documents are sometimes denied registration. Foundations may engage in economic activities in order to increase the value of property, which may only be used for statutory goals.

An organization's income from economic activities is taxed if its exemption would result in the organization obtaining an "unjustified privileged position in the market." The Tax Administration, on its own initiative or upon the request of a taxpayer or other interested person, may determine on a case by case basis whether to tax income generated from an NGO's economic activities. It is not yet clear how the Tax Administration will interpret the "unjustified privileged position in the market" language of the new law, and what types of activities will be considered to afford such a position to an NGO. An organization that is found to have

an “unjustified privileged position” is taxed at the regular business rate of 20%. The profit tax base is defined as the difference between revenues and expenditures, determined in accordance with the profits tax act. No distinction is drawn between associations, funds and foundations, or between related and unrelated business activities. In addition, the Act does not provide for any criteria to distinguish regular versus occasional economic activities.

If an organization generates income by selling tickets for a sport or entertainment event, it is taxed at a 5% tax rate. However, income generated from charging for cultural events (theater, museum exhibition, cinema, etc.) as well as for trade fairs is tax exempt.

*Investments.* Income from passive investments, except dividends, is subject to taxation if the organization is otherwise subject to the corporate income tax. Investment income is included in the income tax base and subject to the 20% rate.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* Generally, the acquisition of real estate is subject to the capital transfer tax, which is 5% of the real estate’s market value. The prescribed 5% tax rate also applies to the exchange of real estate. However, the Red Cross and other humanitarian organizations, funds, and foundations are exempted from this tax. For real estate transfers after December 31, 1997, VAT applies instead.

*Gifts and estates.* All gifts and inheritances whose market value exceeds 50 000 HRK, are taxed at a rate of 5%. Gift and estate tax is not imposed in cases where donated or inherited property has already been subject to capital transfer taxation (VAT). In addition, the Red Cross and other humanitarian organizations, associations, funds and foundations, are exempt from the gift and estate taxes. NGOs that receive real estate in the form of gifts from the Republic of Croatia or local government, or acquire real estate as means of restitution or for other reasons connected with the Homeland War, are also tax exempt.

*VAT.* Normally, an organization is included in the VAT system if it applies for such status or if the value of its taxable deliveries exceeds 85,000 kuna a year. The Red Cross, political parties, trade unions and chambers, religious communities and medical, cultural and other institutions established under separate laws are exempt from VAT, the rate of which is 22% on the total value of the organization’s deliveries. Domestic humanitar-

ian organizations have the status of a final consumer and are thus not included in the VAT system. Goods necessary to accomplish statutory goals purchased by domestic organizations with donations from foreign organizations are exempt. International humanitarian organizations do not pay VAT for goods and services purchased for official use and private use of staff if an agreement is signed with the government and may also be exempt from VAT on purchase of goods within Croatia. New amendments to the VAT law provide for tax holidays for non-profit organizations that receive foreign donations of goods or services, as well as for in-country purchases financed by foreign aid. In addition, independent artists and artistic organizations are now exempt from the VAT system. Scientific journals are zero-rated.

*Other taxes.* Non-profit organizations exempted from profit taxation are not subject to the corporation name tax. Also, a new regulation exempts from customs duties and taxes all foreign donations to domestic organizations.

NGO are also not subject to the tax imposed on advertising. However, this does not include posting billboards, banners or means of public advertising other than the media.

#### **D. Tax Benefits for Donations by Individuals and Legal Persons**

Donations made by corporations or individuals to organizations pursuing cultural, scientific, educational, health, humanitarian, sport, religious and other activities are deductible up to 2% of the donor's income generated in prior calendar year. The established threshold may be exceeded upon approval of the competent ministry. For example, if the Ministry of Education and Sport deems a project of an amateur sport organization particularly beneficial, donations to that project may be up to 100% deductible.

## **CZECH REPUBLIC**

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

The Corporate Income Tax Law provides that all organizations that have been established or founded to carry out not-for-profit activities are entitled to certain tax reductions or are tax-exempt. The law includes the following forms of legal entities in this category: registered interest associations of legal entities, associations of citizens, trade unions, political parties, political movements, registered churches and religious societies/congregations, foundations (with endowment), funds (without endowment), public benefit corporations, public higher educational institutions, municipalities/communities, district offices, budgetary and subsidiary organizations of the state and municipalities, and state funds. Tax reduction is granted to not-for-profit organizations provided the money saved on tax is used to advance statutory activities

### **B. Taxation by Income Source**

*Grants and membership dues.* Grants and membership dues are not subject to tax.

*Economic and business activities.* Most not-for-profit entities are allowed to engage in profit generating economic activities. However, foundations and funds may not engage in economic activities, and political parties and movements are limited in their ability to do so. Public benefit corporations may engage in economic activities only if such activities contribute to better and more efficient use of their property and resources without jeopardizing their statutory activities.

Profits of less than CK 100,000 are exempt. NGOs may deduct 30% from their tax base up to CK 3 million if tax savings are used to cover expenses from or advance tax exempt activities. Foundations are exempt only on income from foundation property. 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.

*Investments.* Generally, passive investment income generated from the lease of real estate, interests on saving accounts, dividends, yields, deposits, royalties, and other investments is taxable. The tax rate differs for certain kinds of investment income. Public benefit corporations and funds

are strictly forbidden from taking part in any entrepreneurial activity of another person, and are therefore prohibited from investing in securities. Foundations with registered endowments are restricted to investing up to one fifth of their assets, after subtracting endowment equity, in shares of stock holding companies. The endowment itself may be invested into obligations and other securities. The income of foundations from interest on saving accounts, rent from real estate, yield from obligations, dividends from securities guaranteed by the state, yields from patent rights and royalties, as well as income from leasing pieces of art, is fully tax exempt only if the income source is registered as a part of the endowment of the foundation.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* Exemptions from the land use tax are available for lots of land with buildings or parts of buildings used for ceremonies of registered churches and religious societies/congregations, owned by an association of citizens or by a public benefit corporation, or used by schools and educational establishments, museums, art galleries, public libraries, state archives, health or social care institutions and foundations and funds. Exemptions are available from the tax on buildings for buildings owned by registered churches and religious societies/congregations or associations of citizens or by public benefit corporations, used by schools and educational establishments, museums, art galleries, public libraries, state archives, health or social care institutions, foundations (with endowment), associations of handicapped citizens, or which represent a state registered architectural monument open to the public, or used exclusively for the improvement of the environment.

*Gifts and estates.* Exemptions from the gift and inheritance taxes are available for transfers of property to the state, to municipalities through corresponding administrative branches or through the budgetary or subsidiary organizations established by the state or local administration. Also exempt are uncompensated transfers of property to legal entities with their seats in the Czech Republic established to conduct activities in the fields of culture, education, science, learning, health and social care, fire protection, ecology, physical culture and sports, education and protection of children and young people, and to finance these activities; registered churches and religious societies/congregations; public benefit corporations, if the property serves their main activity; foundation and funds; and recipients of grants provided by a foundation or a fund. In addition,

transfers of property from the National Privatization Fund of the Czech Republic and from the Land Fund of the Czech Republic in connection with privatization are also exempt. Legal entities operating shelters for abandoned animals or endangered species are exempt from the gift tax.

*VAT.* A taxpayer is included in the VAT system if its monthly turnover exceeds CK 700,000 for three months. The following are VAT exempt: a) public operators of television and radio broadcasting with the exception of advertisement and otherwise sponsored programs or their parts; b) officially licensed and registered schools and educational institutions (colleges, universities), for their educational activities; c) legal persons licensed to provide health and social care under special regulations; and d) all taxable activities of a not-for-profit organization related to its statutory activity. In addition, a VAT exemption is available for certain basic postal services, specific financial and insurance activities, first transfer of real estates up to certain time limit, lotteries and similar games, and transfer of ownership title to an enterprise. A preferential 5% rate applies to trading of most food and agricultural products, many health care and health protection goods, services and equipment (including equipment for the handicapped), and books, journals, newspapers, small wind power generators, low consumption light bulbs and many other products with environmentally positive impact. Other goods and services are taxed at the ordinary 22% rate.

#### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Businesses may not deduct more than 2% of income and must donate at least 2000 CK to qualify for the deduction. Donations must be given to municipalities or not-for-profit organizations headquartered in the Czech Republic, and must be used for one of the purposes set forth below with respect to individual donations.

*Individual donations.* Individual donations are deductible up to 10% of income. To qualify, an individual must donate at least 2% of income, but not less than 1000 CK. Donations must be given to municipalities or not-for-profit organizations headquartered in the Czech Republic. Donations must be used to finance “science and learning, research and development, culture, schools, police, fire squads, support and protection of young people, protection of animals, social and health care, ecology, humanitarian and charity purposes, religious purposes for registered churches

and religious communities and sports.” In addition, donations to natural persons living in the Czech Republic who use the donation to run “schools and health care establishments and care for abandoned animals or endangered species” are also exempt.

## **ESTONIA**

Estonia has a unified income tax under which legal entities pay the tax of 26/74 only on certain distributions, including fringe benefits to natural persons, gifts and charitable contributions, dividends and other profit distributions, and non-enterprise expenses.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

Non-profit organizations are not exempt, and pay the tax on any taxable distributions that they make. A gift or contribution by a nonprofit enterprise on the approved government list (public benefit organizations, including those in the fields of education, charity, religion, science, amateur sports, culture, public health, social welfare, protection of nature, and cultural autonomy of national minorities, that comply with the non-distribution constraint, limit administrative expenses, lack tax arrears and use entrepreneurship income solely for statutory purposes) to another organization on the list is not considered a taxable distribution. NGOs, like other legal persons, pay the tax at the ordinary rate on gifts and contributions made to other NGOs that are not on the government list, and pay tax on amounts exceeding 2% for contributions to organizations on the list (see below). A gift or contribution by a nonprofit organization to a natural person is taxed at 26/74 except for contributions or gifts of material help listed in the organization’s statutes.

### **B. Taxation by Income Source**

*Grants and membership dues.* Because legal entities pay tax only on distributions, not income, there is no tax on income received from grants or membership dues. Note that a legal person’s admission and membership fees to associations are considered taxable distributions unless they are directly related to the taxpayer’s entrepreneurship.

*Economic/business activity.* Generally, foundations and nonprofit associations are permitted to engage in any activity that corresponds to the purposes stated in their Articles of Association. However, nonprofit enterprises will pay tax on expenses (distributions) that are unrelated to their statutory goals.

*Investments.* Dividends and other profit distributions are subject to a tax of 26/74 on the legal entity making a distribution to nonprofit associations and foundations not entered on the government list. Such distributions are not taxed if they are to entities on the list.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* There are no exemptions from this tax. Tax between .5% and 2% of the land's taxable value is imposed on owners and certain users.

*Gifts and estates.* There is no tax on gifts or estates.

*VAT.* The VAT rate is 18%. Goods not subject to excise tax are exempt from VAT if they are received as state foreign aid or purchased with money received as state foreign aid or granted as state foreign loans.

### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Legal persons, including NGOs, pay the income tax on distributions with respect to charitable contributions to associations and foundations on the government's list, on the amount exceeding 2% of income subject to the social tax (essentially, total remuneration paid to employees in the previous calendar month). This sum may be recalculated at year-end for those organizations that do not make charitable distributions each month. Donations to nonprofit organizations not on the list are taxed.

*Individual donations.* Individuals may deduct documented gifts and charitable contributions to organizations on the government list or to certain agencies of the state and local governments, managers of nature reserves, or universities of public law. The deduction is limited to 5% of taxable income.

The following table summarizes the application of the Estonian Income Tax Act to gifts and donations to NGOs and natural persons:

SURVEY OF TAX LAWS AFFECTING NGOS IN CEE

<b>Payor</b>	<b>Recipient</b>	<b>Tax</b>
Legal Person	Nonprofit organization	26/74
Nonprofit organization	Nonprofit organization	26/74
Public benefit organization	Nonprofit organization	26/74
Legal Person	Public benefit organization	26/74 on amount exceeding 2% of amounts subject to social tax
Nonprofit organization	Public benefit organization	26/74 on amount exceeding 2% of amounts subject to social tax
Public benefit organization	Public benefit organization	None
Natural person	Public benefit organization	5% deductible from taxable income
Legal Person	Natural person	26/74
Nonprofit organization	Natural person	26/74
Public benefit organization	Natural person	26/74
Foundation providing material help or gifts under its articles	Natural person	None

**HUNGARY**

Hungarian law establishes a number of NGO organizational forms, including associations, foundations, public foundations, public benefit corporations, civil society organizations, churches, and others. It further creates two categories of public benefit organizations – the public benefit organization and the prominently public benefit organization. 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 (education, charity, religion, science, amateur sports, culture, children and youth, human and civil rights, public safety, consumer protection). A “prominent” public benefit organization, which is entitled to greater tax benefits, must in addition undertake duties that are ordinarily considered state or local government duties. Hungarian law also provides for public benefit corporations, which can have both business and public benefit activities, but cannot distribute profits.

The Corporate Income Tax Law applies to NGOs as well as other legal persons, and imposes a corporate tax rate of 18% of the positive tax base.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

The corporate income tax law applies to all types of organizations, and all types of NGOs are entitled to claim the tax benefits available under the law. Public benefit organizations are entitled to greater tax benefits than organizations that are not established to pursue public benefit activities. Prominent public benefit organizations are entitled to a higher level of benefits. Business income of nonprofit organizations not exceeding a specified amount is exempt from tax, and certain sources of income are carved out of the definition of the business activity. Thus, the “public benefit activity” of a foundation, public foundation, civil society organization, or public chamber, as well as any support, allowances, and fees received in connection with such activity, and the sale of assets or inventories serving solely the public benefit activity are carved out of the definition of business activity, and are therefore not subject to tax. In order to receive tax preferences, public benefit organizations must not have public debts.

### **B. Taxation by Income Source**

*Grants and membership dues.* There are no taxes on grants or membership dues used to further statutory or public benefit purposes.

*Economic/business activity.* NGOs are generally entitled to engage in business activities as long as: 1) they are not established for the primary purpose of pursuing business activity; 2) in the case of civil society organizations and foundations, they only pursue business activity in order to realize the economic conditions for the achievement of their objectives; 3) in the case of foundations, the activity does not jeopardize their purposes; and 4) in the case of public benefit companies, they do not distribute profits to members.

Income from the sale of assets or inventories serving solely public benefit or, for non-public benefit organizations, statutory purposes, is not taxable. Income from business activities that does not exceed a specified threshold amount for each type of NGO is exempt. Non-public benefit organizations may exempt business income that does not exceed 10% of total income or 10 million HUF. Public benefit organizations are exempt on business income that does not exceed 10% of total income or 20 million

HUF, and, for “prominent” public benefit organizations, 15% of total income. Public benefit corporations are taxed at a proportional rate on income above the 10% threshold.

*Investments.* Generally, investment income is taxable, as is income from other business activities. Public benefit organizations are exempt on interest or yields from deposits or securities in connection with their public benefit activities. Non-public benefit organizations and public benefit companies are exempt on part of interest or yields in proportion to targeted or public purpose activities to total income. Foundations must have sufficient funds to carry out their objectives in order to register. Economic activities may not jeopardize the realization of the foundation’s purposes. Otherwise, foundations may manage funds independently and without legal restrictions.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* Civil society organizations, foundations, public chambers and public benefit companies are conditionally exempt from local building and land taxes, provided that they did not have to pay corporate income tax in the previous calendar year.

*Gifts and estates.* Grants for public benefit purposes are exempt. The pre-tax profit of public benefit organizations is increased by the amount of the donation if the organization has public debts at the end of the tax year. If public benefit organization does not have public debts, but has income from business activities that exceeds the tax-exempt degree, their pre-tax profit must be increased by that portion of the donation that is equivalent to the ratio of business income that is above the preferential limit over the overall business income.

*VAT.* The VAT rate is 25% although there is a preferential rate of 12% for certain products. No taxable persons are exempt from VAT. Taxpayers whose actual and expected annual income from economic activities is less than 2,000,000 HUF may elect tax-exempt status at the outset of the tax year. Sales of certain products and services are exempt, including health care, social care, organization of scientific events, public radio and television, education, hostels and dormitories, libraries, museums, and nonprofessional sports. Zero-rating applies to exports, pharmaceuticals, books used in public education, products for the blind, and baby diapers.

*Other taxes.* Civil society organizations are exempt from paying local communal tourism and business taxes under the same conditions as for

real estate taxes. They are also exempt from certain fees for court and administrative proceedings, including registration, gift, and inheritances fees.

#### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Corporations, unincorporated partnerships, and individual entrepreneurs may deduct donations up to 20% of pre-tax profits. In the case of donations to “prominent” public benefit organizations, the deduction is 150% of the donation up to 20% of pre-tax profits.

*Individual donations.* An individual may take a credit for 30% of a donation to a public benefit organization or public interest commitment. The credit may not exceed 50,000 HUF. In the case of donations to “prominent” public benefit organizations, the tax credit is 30% of the donation, up to 100,000 HUF.

*“1% Law.”* Taxpayers may direct that 1% of their taxes be paid to designated public benefit organizations and an additional 1% to religious organizations.

### **LATVIA**

The enterprise income tax rate is 25% of a legal person’s taxable income. Non-residents are taxed on income gained in Latvia from entrepreneurial activity or related activities.

#### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

Business income tax is not paid by non-profit organizations, private pension foundations and public organizations that do not engage in business activity.

#### **B. Taxation by Income Source**

*Grants and membership dues.* Income from grants and dues is not taxed if the payments are made by organizations (public organizations, foundations and religious organizations) that are on a list established by the Ministry of Finance.

*Economic/business activity.* Public organizations may engage in business activities. The organization is exempt from tax on income from related business activities. Income from unrelated business activities that are not connected with the NGO's statutory purpose is taxable.

*Investments.* NGOs have the freedom to invest their finances in any enterprise they choose. However, investment income is taxed.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* The following legal persons or property are exempt from real estate tax: religious organizations, public cultural associations, and other public organizations; immovable property that is used for environmental and fire protection measures; and immovable property which is used for health protection, sports and physical culture, public education and cultural needs. Public organizations pay real estate tax on that part of the immovable property that is used in business.

*Gifts and estates.* There are no exemptions from the gift, estate or inheritance taxes.

*VAT.* The VAT rate is 18% of the value of the delivery of goods, services and consumption that is subject to taxation. Exports are zero-rated. No legal persons are exempt from VAT. Certain goods and services are exempt, including those offered by pensions for the elderly, social care or rehabilitation centers, preschool fees, meals offered by prisons and reformatories, tuition and professional training fees, library services, fees for certain cultural events, and medical services.

### **D. Tax Benefits for Donations by Individuals and Corporations**

Individual donations are afforded the same tax treatment as business donations. A donor may deduct ninety-percent of a contribution from gross income up to 20% of the wholly assessed tax liability. Only NGOs (public organizations) with the permission of the Ministry of Finance may receive tax-benefited contributions. The Ministry has established a list of such organizations. Entry on the Ministry's list requires 1) an application; 2) statutes and information about the founders; 3) a financial review from the prior year, and a statement from the Public Income Office that the organization has received the office's declaration as to its registration; 4) a statement regarding contributions, contributors, and a copy

of the organization's publication showing the use of contributions; 5) a recommendation letter from the public administration institution which oversees the organization's area of activity; and 6) a registration license. Ministry permission must be renewed annually. If the activities of the public organization do not correspond with its purposes, tax benefits may be rescinded according to the scheme provided by the Cabinet of Ministers.

## **LITHUANIA**

Each type of NGO (charity and support funds, associations, community organizations, and public organizations) is subject to a special law that governs all of its activities.

The normal corporate income tax rate is 24%.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

A reduced income tax rate of 5% applies to entities organized as charity and support funds, associations, community organizations, and public organizations. Religious organizations are subject to tax at the regular corporate income tax rates, but compute their taxable income according to special rules. For religious organizations, taxable income excludes any income, as well as donations and proceeds from sales of donated property, as long as such proceeds are used in the reconstruction of property belonging to the religious organization and for charitable purposes; all other income is taxed at the regular corporate rate.

### **B. Taxation by Income Source**

*Grants and membership dues.* Exempt income includes membership fees and any funds received as charity and support (donations) under the Charity and Support Law, which applies to NGOs with activities in education, charity, religion, science and amateur sports; aid to the needy; aid to war, disaster, and epidemic victims; environmental protection; and others.

*Economic/business activity.* Non-profit organizations are universally prohibited from engaging directly in a trade or business.

*Investments.* Investment activities are governed by the laws applicable to the various types of NGOs. In general, there are no specific prohibi-

tions against particular investments—only prohibitions against engaging in trades or businesses. Investment income is taxed at the preferred 5% rate.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* The following non-profit organizations are currently exempt from real estate taxes: charity and support funds, budgetary institutions, community organizations, cemetery organizations, associations for the benefit of handicapped persons, educational institutions, social welfare institutions, environmental protection organizations and religious organizations. Otherwise, the tax rate on property used for the activities provided for in the taxpayer's bylaws is 1% of the taxable value of the property. The tax rate on property that is not used in furtherance of the taxpayer's statutory activities is 5% of the taxable value of the property.

*Gifts and estates.* The Estate and Gift Tax only applies to natural persons who receive inheritances or gifts. If a non-profit organization receives a bequest or gift, it is considered income from non-business activities and will only be exempt if the laws governing tax-exempt income apply. Otherwise, it is subject to the 5% income tax.

*VAT.* The VAT rate is 18%. A zero-rate applies to exported goods. No specific persons are exempt from VAT. Goods imported as charity are exempt from import VAT. Specific goods and services are exempt from VAT, including social services rendered to children or the elderly, certain medical technology, educational services provided by registered institutions of learning, certain noncommercial cultural services, cultural landmark restoration and conservation services, and certain traditional artisan work, among others.

### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Businesses may deduct from taxable income two times the amount of the donation up to 40% of taxable income. Deductions are permitted only if the contributions were made pursuant to a particular program under the Charity and Support Law. There are no carryforwards of unused donations.

*Individual donations.* Individuals are entitled to deduct charitable contributions with no limitation. As with business donations, no carryfor-

wards are allowed. A draft law is being prepared for 2001, which will eliminate the deduction, but will permit individuals to direct the tax inspectorate to pay up to 2% of their income taxes to a public benefit organization or to a religious organization.

## **MACEDONIA**

Under the Macedonian Profit Tax Law, the taxpayer of profit tax is a legal entity or a physical person performing a registered activity or a resident of the Republic of Macedonia earning a profit from an activity in the country and abroad. The taxable base is the difference between the total income and total expenditures of the taxpayer, excluding certain incomes and expenditures as determined by the Profit Tax Law. The profit tax rate is 15%.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

The Law on Citizen Associations and Foundations provides that all associations and foundations may claim tax exemptions provided for by law. However, the Law on Profits Tax applies to all legal entities that realize profits, and does not provide any exemption for NGOs. The relevant tax laws provide only for reduction in the tax base of certain legal entities, depending on the source of their income and the purpose of their expenditures. For example, accelerated depreciation is allowed for, among other things, equipment for preserving natural and human environments up to 25% over the amount calculated according to the depreciation methods set forth in the law. The only organizations exempt from tax under all circumstances are enterprises for professional rehabilitation and companies that employ disabled people to work under special conditions, both in manufacturing and in services. This exemption is granted by the Ministry of Finance.

### **B. Taxation by Income Source**

*Grants and membership dues.* The Law on Profit Tax provides that income of a legal entity from a budget or fund assigned for performance of its activity will not be included in the tax base for purposes of calculating the profit tax. While this provision is unclear and subject to interpre-

tation, it is currently understood to exclude from tax receipt by a legal entity of funds from a central or local government budget, or of funds such as donations, grants, or membership fees that are designated for performance of a statutory activity. As a practical matter, therefore, at this time, grants, donations, and membership fees are not subject to tax.

*Economic/business activity.* Associations and foundations may not engage directly in economic activities. They must found joint stock companies or limited liability companies in order to engage in economic activities to finance their operations. These separate companies must pay tax like any other business company.

*Investments.* NGOs may generate income from investments directly, and are not required to form a separate company to receive income on, e.g., interest, dividends, and rents. However, they are taxed on investment income at the 15% rate. NGOs, like other taxpayers, are taxed on bank account interest, but not on municipal bond interest. Dividends and other income from participation in the profits of another taxpayer resident in Macedonia are not included in the tax base if they are taxed to the other taxpayer. Dividend income from non-resident companies will be taxed to the recipient as well as the issuer unless otherwise provided by treaty. Seventy percent of capital gains from the sale of securities and immovable property is included in the tax base, and is taxed as ordinary income. Capital losses may be offset by capital gains and the remaining loss carried forward for three years.

If an NGO establishes a business subsidiary, that subsidiary pays profits tax on any dividends it pays to the NGO. However, the NGO, as the parent entity, does not pay tax on the dividends received.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* The Law on Property Tax imposes a tax on both real and personal property, inheritances and gifts, and the disposition of real property and the rights thereto. Generally, every legal and physical person who is the owner of property must pay a tax at a rate of 0.10%. The Law on Property Tax exempts from the tax buildings and land used for educational, cultural, scientific, social, health care, humanitarian and sports purposes, except those buildings or parts of buildings and land that are economically exploited or leased; buildings where protective workshops (companies that employ the disabled) are located; buildings and land owned by the Macedonian Orthodox Church and other religious organiza-

tions, or used for performance of religious rituals, or as a residence for its officials, except if they are used for economic purposes; and buildings and offices for business purposes used for the performance of the taxpayer's activity, except administrative buildings; and buildings and land for missions owned by international organizations, subject to reciprocity. The Law in addition imposes a tax on real estate and the rights thereto when the property is transferred for a price or exchanged for remuneration; NGOs are not exempt from this tax.

*Gifts and estates.* The following are exempted from taxes on inheritance and gifts: state organs, organs of the local self-government, organizations of the Red Cross, humanitarian and social institutions, scientific, educational, cultural institutions and religious communities, for gifts received in the form of movable or immovable property, financial resources, and claims.

*VAT.* The general VAT rate is 19%. NGOs generally are not exempt from VAT. Certain cultural institutions, botanical gardens, zoos, parks, archives, and documentation centers are relieved from VAT. Some goods or services are taxable at a reduced tax rate of 5%, such as publication of brochures and periodicals. Goods given as gifts by foreign donors to domestic public institutions or to registered domestic humanitarian not-for-profit organizations and non-governmental organizations without compensation are exempt from VAT. NGOs may claim a VAT refund for goods transferred abroad and used there for humanitarian, charitable, or educational purposes under the conditions set forth in Art. 47 of the VAT law.

Not-for-profit organizations may seek VAT rebates on goods imported or purchased on the following conditions: 1) the transaction is not VAT exempt; 2) if purchased, VAT was actually computed, documented by invoice, and paid; 3) if imported, VAT was actually paid; and 4) the goods involved are transferred abroad and used for humanitarian, charitable, or educational purposes.

#### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Expenses for donations and grants for scientific, humanitarian, cultural, educational, health care, religious, and amateur sports purposes may be deducted from the taxpayer's tax base up to 3% of a business' gross income, provided the donations and grants were made to public organizations financed by the state budget or the Red Cross of

the Republic of Macedonia. Stipends may not be treated as expenditures in calculating the tax base, unless they are provided by funds and foundations established according to the law, or are given to top athletes.

*Individual donations.* There are no deductions for donations made by individuals.

## **POLAND**

A legal entity with its seat or management in Poland is subject to taxation of all earnings at the corporate income tax rate of 40%. For taxpayers based abroad, only that income generated in Poland is subject to taxation. Income on dividends or other earnings derived from profits earned by legal entities based in Poland is taxed at the rate of 20%.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

A tax exemption is available for taxpayers whose activities, as shown in their articles of incorporation, include the following: science and technical scientific research; education; culture; sport and physical exercise; environmental care; support for infrastructure development in rural areas; charity; health care and social care; occupational and social rehabilitation of the disabled; and religion. A tax exemption is granted if an organization declares that an income is designated for one of the purposes listed above. The exemption is valid as long as the organization does not use the exempt income for purposes different than those that are initially declared. The taxpayer may request a ruling from the tax authorities if it is in doubt regarding the availability of a tax exemption.

### **B. Taxation by Income Source**

*Grants and membership dues.* Grants are tax-exempt, as long as the organization uses them for a specified public benefit purpose. Membership dues are exempt as long as they are not used for business operations.

*Economic/business activity.* Non-profit organizations may engage in business activity. Any income from such activity will be exempt as long as it is used for a specified public benefit purpose. This exemption does not apply to income derived from the production of alcoholic beverages, to-

bacco, fuels, electronic devices, and the production and/or sale of precious metals or goods made of precious metals.

*Investments.* As with other sources of income, investment income is permitted and is exempt if used for specified public benefit purposes.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* Exemptions from real estate taxes are available to associations conducting certain activities (education, sports, recreation and science) for the benefit of youth and children to the extent that the real estate is not used for business activities. Other organizations pay tax in accordance with the general rules. However, the tax on plots and buildings not used for business activities is relatively low.

*Gifts and estates.* Gift and estate taxes do not apply to organizations; these taxes are levied on natural persons only. Legal persons, including non-profit organizations, are subject to corporate income tax on gifts or inheritances received; in other words, gifts and inheritances create income for corporate income tax purposes. NGOs will be exempt from tax on gifts and estates as long as the income is used for a specified public benefit purpose.

*VAT.* The VAT rate is 22%. There are no exemptions from VAT available to specific kinds of persons. Certain goods and services are exempt, including services in the fields of scientific, technical, and economic information, research and development, education, health protection and social welfare. Other goods and services are accorded a preferential 7% rate; these include hearing aids, pharmaceutical products, certain types of medical and sanitary articles, rehabilitation products, and Braille devices.

### **D. Tax Benefits for Donations by Individuals and Corporations**

Donations by individual and corporate donations are deductible. Businesses may deduct for both cash and in-kind donations. Donations to organizations whose activities include charity, religion, public security, national defense, environmental protection, fire protection, and housing investment by local government are deductible up to 10% of the donor's taxable basis. Donations to organizations whose activities include science, education, culture, sport and physical exercise, rehabilitation of the disabled, health care and social care and support for infrastructure invest-

ment in rural areas are deductible up to 15% of the donor's tax base. The total amount of deductions for donations may not be higher than 15% of the tax base. Donations are not deductible if they are made for the benefit of: natural persons; entities engaged in the production of alcoholic beverages, fuels, tobacco, electronic devices and precious metals; and entities engaged in the trade of precious metals.

No carryforward of unused deductions is allowed.

## **ROMANIA**

In Romania, the profit tax rate is 25%.

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

Educational and religious organizations, public institutions, organizations for the blind or handicapped, cooperatives and private condominiums may claim exempt from profit taxation.

### **B. Taxation by Income Source**

*Grants and membership dues.* Grants and dues are exempt from taxation.

*Economic/business activity.* Both foundations and associations may engage directly in economic activities provided that they are accessory and are related to the primary purpose of the organization. Foundations and associations may also found commercial companies, provided that all revenues from the companies' activities are reinvested in the company or used to achieve the purposes of the organization.

Foundations and associations pay profits tax of 25% on profits from business activities, and generally, there are no exemptions from this tax. Only profit from the delivery of goods or provision of services resulting from specific activity carried out by organizations of the blind and associations of the handicapped are exempt from profit tax.

*Investments.* Interest and investment income is exempt from tax. The law does not provide for endowments.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* Buildings housing public institutions, historical, architectural or archaeological monuments, museums or memorials, except space used for economic activities; buildings used for religious organizations; and those belonging to testamentary foundations with missions relating to promoting national cultural institutions or humanitarian, social, or cultural activity are exempt from tax on real estate. Real estate taxes can be increased or decreased by up to 50% by decisions of county councils.

*Gifts and estates.* There are no taxes on gifts or estates.

*VAT.* Generally, the VAT rate is 22%. Associations are subject to VAT only if they are performing economic activities. Nonprofit organizations are exempt from VAT for all social and charitable activities; for activities in the civic, political, or religious fields; or if they are organizations for the blind and disabled or health services organizations. Trade unions and public institutions are exempt for administrative, social, educational, national defense, public order, state security, cultural, and sports activities. Goods and services for projects on Romanian territory financed by foreign governments, international institutions and NGOs, and goods and services for projects financed by PHARE are subject to a zero rate. Certain publications are entitled to a preferential 11% rate.

### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Businesses may deduct up to 5% of their income for donations for qualifying purposes (religion, education, human rights, science, etc.).

*Individual donations.* Individual contributions are not tax-deductible.

## **SLOVAKIA**

### **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

All types of NGOs, including associations, foundations, non-investment funds, and nonprofit organizations providing generally beneficial services are entitled to claim exemptions from tax.

## **B. Taxation by Income Source**

*Grants and membership dues.* Grants are not subject to taxation. Membership dues collected by associations of legal entities, professional chambers with voluntary membership, civic associations, political parties, and political movements are exempt.

*Economic/business activity.* Business activity is allowed, except by foundations and noninvestment funds, which are prohibited from engaging in economic activities. Income from related business activities is exempt from tax if: (a) the business activity is not conducted at a price advantage in competition with for-profit entities, and (b) the income is proportionate to costs. The determination of proportionality is made by comparison to the income/cost ratios of “other persons.” Income from related activities up to 300,000 SK is exempt. 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 organization’s statutory activities are carried out.

*Investments.* Interest on bank accounts is taxed at 15%. Dividend or stock earnings are taxed at 29%.

## **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* There are varying rates of taxation on real estate depending on the type of property. Exemptions from feu duties and construction and apartment taxes are available for property devoted to various public purposes, such as culture, education and social services, as long as the property is not used for business activities, including rentals.

*Gifts and estates.* The tax rate for gifts and estates is set forth in a progressive rate schedule provided in the Law on Inheritance Tax, Gift Tax, and tax on Conveyance and Transfer of Real Property. Gifts are exempt from the gift tax if they are used to develop foundations, churches and religious communities, culture, schools, science, health care, school care, ecology, physical training and sport, as well as inland communities, state archives, and humanitarian and charity unions. Gifts must be to entities specified by law to receive the exemption.

Bequests are exempt from the legacy duty under the same conditions as those set forth above for gifts.

*VAT.* The VAT rates are 10% and 23%. Legal entities not established to conduct business do not register as VAT payers. Nonbusiness entities that conduct economic activities may become VAT payers if they have busi-

ness licenses and their turnover from business activities exceeds 750,000 SK. Activities exempted from VAT include educational, training, scientific, health care, and social care services. If goods are exempted from import duties, they are also exempted from the VAT. Also, if the following goods are received from abroad, they are exempt from taxation: goods for education, scientific and cultural purposes; religious objects; and goods designated for disabled persons.

#### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Businesses may deduct the value of gifts in excess of 500 SK given to municipalities or other legal entities to finance science and education, culture, schools, fire protection, support to youth and security of the population, social health care, ecological and humanitarian concerns, charity, religious purposes of the church communities recognized by the state, physical training and sports purposes. The deduction may not exceed 10% of the tax base.

*Individual donations.* Individuals may deduct contributions in excess of 2% of the their tax liability or 1000 SK for contributions made to finance science and education, culture, schools, fire protection, support to youth, protection of animals, social and health care, ecological and humanitarian concerns, charity, church purposes, physical training and sports purposes. The deduction may not exceed 10% of total tax liability.

*“1%” Law:* Effective January 1, 2002, taxpayers may designate 1% of taxes to be paid to any legal or natural person. It is expected that this provision will be amended prior to the date it becomes effective to limit the recipients of designated funds to appropriate organizations.

### **YUGOSLAVIA**

The Federal Republic of Yugoslavia consists of Serbia and Montenegro. This summary will refer to Yugoslavia where the laws of the two entities are in accord, and will discuss the laws of Serbia and Montenegro separately only where those entities differ in their treatment of a particular issue.

Generally, a corporation’s income is taxed at a rate somewhere between 20% and 30%.

## **A. NGOs Entitled to Claim Exemption from Income or Profits Taxes**

Yugoslav corporate tax law does not explicitly address non-governmental organizations as income or profit tax-exempt. Rather, it refers to “other legal entities” which the law exempts from tax. These primarily include associations, legacies, foundations, religious and sports organizations.

## **B. Taxation by Income Source**

*Grants and membership dues.* Membership dues, donations and contributions are not taxable as long as they are not related to the organization’s economic activities. A corporation may deduct up to 1% of its total income for membership fees. However, membership fees to political parties are not tax exempt.

*Economic and business activities.* A non-profit organization in Yugoslavia may engage in economic or business activity; the presence of economic activity income does not make other income taxable. No distinction is drawn between related and unrelated income. The profit from an organization’s economic activities are exempt from tax as long as: a) it does not exceed 300,000 dinars; b) it is not distributed to the founders of an organization, or to its employees, members of the management board or persons affiliated with them; and c) the salaries of the members of the management board and employees do not exceed double the amount of the average salary paid in the field of economic activity in which an organization is engaged. In addition, an exemption is granted to a non-profit organization that generated a profit of 300,000 or more in the previous fiscal year, provided the organization is able to prove that such profit was spent in furtherance of purposes for which the organization was established.

An organization that seeks to be tax exempt from profit generated from economic activities must apply to the tax authority at the end of the fiscal year. In addition to the application, an organization must submit a financial report for that fiscal year.

*Investments.* Under Serbian law, income generated from government bonds is tax exempt, as is income earned on an endowment. Dividends are taxed at the rate of 20%. Income from the sale of shares and other securities, copyrights, real estate, and land held for more than twelve months is accorded a 50% tax exemption. In Montenegro, income generated from any passive investments (dividends, bonds, interest, etc.) is tax exempt.

### **C. Taxes Other Than Income or Profits Taxes**

*Real estate.* A non-profit organization is exempt from real estate taxes, as long as its real property is used for the organizations' statutory goals.

*Gifts and estates.* Pursuant to the *Serbian Law on Legacies and Foundations*, gifts to or inheritances by legacies and foundations are exempt from turnover taxes. Montenegrin law provides for a similar exemption, which extends in addition to gifts to or inheritances by associations.

*VAT.* The VAT has not yet been introduced in Yugoslavia.

*Turnover taxes.* As a general rule, turnover of goods is taxed at a rate between 9% and 20% and delivered services are taxed at a rate of 9%. An organization that seeks to be exempt from turnover taxes needs to obtain a ruling from tax authorities in advance. In Serbia, goods imported for humanitarian aid by the Red Cross, or domestic goods that are donated to the Red Cross are exempt, as are services provided by the Red Cross and religious organizations. Purchases of equipment and materials by associations engaged in economic activities necessary to carry out statutory purposes are also exempt, as are fees charged for cultural and sporting events organized by NGOs. In addition, the delivered services tax includes fees charged for courses offered by NGOs. In Montenegro, NGOs appear to be exempt from these taxes on any goods or services to the extent they are necessary to carry out statutory goals.

*Other taxes:* Corporation name tax. Non-profit organizations are typically exempt from paying the corporation name tax.

### **D. Tax Benefits for Donations by Individuals and Corporations**

*Business donations.* Donations by a corporation to public benefit, sports and religious organizations are tax deductible to the extent they do not exceed 3% of the corporation's total income.

*Individual donations.* Donations by an individual to public benefit organizations are tax deductible to the extent they do not exceed 10% of his or her income subject to taxation.

The law does not contain any minimum distribution or carryforward rules with respect to received donations.



**International Center for Not-for-Profit Law**

733 15<sup>th</sup> Street, NW Suite 420

Washington DC 20005 USA

Voice: 202-624-0766

Fax: 202-624-0767

Web: [www.icnl.org](http://www.icnl.org)

E-mail: [infoicnl@icnl.org](mailto:infoicnl@icnl.org)

**International Center for Not-for-Profit Law**

**C.E.E. Regional Office**

Apaczai Csere Janos 17-1

1052 Budapest, Hungary

Voice: (36 - 1) 318 69 23

Fax: (36 - 1) 266 14 79

E-mail: [icnl@pronet.hu](mailto:icnl@pronet.hu)

