

Czech Republic

Current as of March 2010 | [Download print version](#) (in PDF)

Table of Contents

- I. [Summary](#)
 - A. [Types of Organizations](#)
 - B. [Tax Laws](#)
- II. [Applicable Laws](#)
- III. [Relevant Legal Forms](#)
 - A. [General Legal Forms](#)
 - B. [Public Benefit Status](#)
- IV. [Specific Questions Regarding Local Law](#)
 - A. [Inurement](#)
 - B. [Proprietary Interest](#)
 - C. [Dissolution](#)
 - D. [Activities](#)
 - E. [Political Activities](#)
 - F. [Discrimination](#)
 - G. [Control of Organization](#)
- V. [Tax Laws](#)
 - A. [Tax Exemptions](#)
 - B. [Deductibility of Charitable Contributions](#)
 - C. [Value Added Tax](#)
 - D. [Property Tax](#)
 - E. [Import Duties](#)
 - F. [Double Tax Treaties](#)
- VI. [Knowledgeable Contacts](#)

I. Summary

A. Types of Organizations

The Czech Republic is a civil law country with four primary forms for nongovernmental, not-for-profit organizations (NGOs):

- Associations;
- Foundations;
- Funds; and
- Public Benefit Corporations (PBCs).

Other not-for-profit legal forms, which are outside the focus of this Note, include religious organizations, political parties, political movements, interest associations, trade unions, professional chambers, and specialized legal forms, such as public educational juridical persons, public research institutions and public universities. [1]

B. Tax Laws

Under the Income Tax Law, NGOs are exempt from tax on income from: statutory activities that do not generate a surplus revenue over related expenses (provided that certain conditions are met); state subsidies; other forms of state support; and “current account” bank interest (i.e., a single bank account used by an entity as its official income-expenditure account; other accounts may exist, but only one can be treated as a “current account”) (Article 18(4), Income Tax Law). Foundations, funds, and PBCs are generally exempt from the Tax on Donations. This exemption also applies to other public benefit NGOs assuming that the donation will be used for the organization’s public benefit activities (Article 20(4), Law on Donations). Accordingly, public benefit NGOs generally do not have to pay either income tax or donations tax on foreign grants. The tax exemption applies to all NGOs with a seat within a European Union member state.

Economic activities and statutory activities that generate a surplus of revenue over related expenses are taxed at a reduced rate up to a certain limit. Foundations are exempt from tax on income generated from their registered endowments. Effective May 2004 when the Czech Republic entered the European Union and the Act on Value Added Tax took effect, NGOs are no longer generally exempt from output VAT on supplies provided to others in pursuit of statutory activities. However, activities of NGOs related to accredited educational activities, the provision of medical and social services, and certain other activities remain exempt from output VAT. NGOs are also eligible for certain Real Property Tax exemptions. Both legal entities and natural persons may deduct donations to NGOs pursuing certain enumerated public benefit purposes and to organizations that filed and organized “public collections” under the Public Collections Law. (For more details see Section V(A) below.)

II. Applicable Laws

- Act No. 1/1993, Constitution of the Czech Republic (“Constitutional Act”);
- Act No. 2/1993, Charter on Fundamental Rights and Freedoms;
- [Act No. 83/1990 on Associating of Citizens \(“Law on Associations”\)](#), as amended by [Act No. 68/1993](#) and by Act No. 33/2008;
- Act No. 227/1997 on Foundations and Funds (“Law on Foundations”), as amended by Act Nos. 210/2002, 296/2007, 126/2008 and 227/2009;
- [Act No. 248/1995 on Public Benefit Corporations \(“Law on PBCs”\)](#), as amended by [Act No. 208/2002](#), and [Acts No. 437/2003](#), 296/2007, 126/2008;
- Act No. 117/2001 on Public Collections (“Public Collections Law”);
- Act No. 586/1992 on Income Tax (“Income Tax Law”), as amended by Act No. 362/2009 as well as previous amending acts;

- Act No. 357/1992 on Patrimonial Tax, Tax on Donations and Tax on Transfer of Property (“Law on Donations”), as amended by Act No. 215/2009 as well as previous amending acts;
- Act No. 338/1992 on Real Estate Tax, as amended by Act No. 362/2009 as well as previous amending acts;
- Act No. 235/2004 on Value Added Tax (VAT), as amended by Act No. 489/2009 as well as previous amending acts;
- Act No. 561/2004 on maternal, basic, high, higher professional, and other university level education (“Law on Schools”).

III. Relevant Legal Forms

A. General Legal Forms

Many types of legal entities may be used to create what is known in international parlance as an NGO. As in most civil law countries in Europe, the principal legal forms in the Czech Republic are associations and foundations. The Czech Republic also has several additional forms, including funds, and public benefit corporations.

Political parties, political movements, churches, religious organizations, and a series of more specialized legal forms, including public educational juridical persons, public research institutions and public universities, are regulated under separate legislation and because of their infrequent dealings with foreign grantmakers, are largely excluded from this Note.

Associations

Associations are membership organizations established by “citizens” [\[2\]](#) to pursue common interests. Associations are generally regulated by the Law on Associations, and within broad parameters, associations are permitted to engage in both mutual benefit and public benefit activities ([Article 13, Law on Associations](#)). Associations are, however, prohibited from engaging in activities that violate the rights of other persons (See [Article 5, Law on Associations](#)).

Foundations and Funds

Foundations and funds are grantmaking, asset-based organizations established by legal or natural persons for public benefit purposes ([Article 1\(1\), Law on Foundations](#)). Foundations must maintain an endowment of at least 500,000 Czech Koruna or CZK (approximately USD \$27,750). Funds have no endowment requirements and may use all of their assets to pursue their statutory purposes ([Article 2\(3\), Law on Foundations](#)). Although neither form may engage in economic activities, both foundations and funds may organize cultural, social, sporting, and educational events, as well as lotteries, in

order to raise funds ([Article 23, Law on Foundations](#)). Foundations may hold up to 20% of the shares of joint stock companies. Investments of assets that comprise the registered endowment are subject to specific rules limiting the risk of loss. Funds are prohibited from investing in capital markets. Foundations, but not funds, may establish Public Benefit Corporations (Article 23 (6b), Law on Foundations).

Public Benefit Corporations

Essentially, PBCs are NGOs [that](#) have no members and render “generally beneficial services” to the public on equal terms and conditions ([Article 2, Law on PBCs](#)). PBCs were originally created to enable the privatization of state entities providing public benefit services. In practice, however, PBCs commonly have been used as an alternate legal form for those foundations created before 1998 that could not meet the criteria for establishing a foundation under the new Law on Foundations. PBCs later became a legal form used to establish institutes, community centers, and entities providing social, educational, and cultural services. This legal form is also commonly used by theatres, hospitals, homes for the elderly, and drug rehabilitation clinics. PBCs may engage in economic activities if the income generated is used to improve the utilization of the organization’s assets without negatively affecting the quality, scope, and availability of the public services it offers ([Article 17 \(1\), Law on PBCs](#)). PBCs may not invest in the entrepreneurial activities of other persons. PBCs may establish branches abroad so long as the law of the country where the branch is established limits the usage of branch resources similarly to the laws of the Czech Republic.

Public Benefit Corporations are exempt from property tax on buildings that serve their purposes and from real estate tax, if the building is used to advance their purposes. [3]

B. Public Benefit Status

Foundations and funds must promote “publicly beneficial goals” ([Article \(1\), Law on Foundations](#)). These goals are defined as the development of spiritual values; protection of human rights and other humanitarian values; protection of the environment, cultural monuments and traditions; and the development of science, education, physical education, and sports ([Article 1\(1\), Law on Foundations](#)). Public benefit companies must render publicly beneficial services to the general public ([Article 2, Law on PBCs](#)), but this term is left purposefully undefined. The concept of public benefit does not appear in the Law on Associations.

The concept of public benefit is woven into the Income Tax Law, the Public Collections Law, and the Law on Donations. Under the Income Tax Law (Articles 15(8) and 20(8)), natural persons and legal entities may in general deduct from taxable income gifts to a legal entity based in the Czech Republic, in any other member state of the European Union, in Norway, or in Iceland, if the recipient allocates the gifts to certain public benefit activities: "science and learning, research and development, culture, schools, police, fire squads, support and protection of young people, protection of animals and their health, social and health care, ecology, humanitarian and charity purposes, religious

purposes for registered churches and religious communities and sports." Assistance for relief in the event of humanitarian disasters is treated similarly. The tax base reduction applies also to those foreign legal entities that are organizing a "public collection." Under the Public Collections Law, "public collection" is limited to collecting contributions for promoting "public benefit purposes," such as humanitarian and charitable goals, the development of education and learning, physical fitness and sports, the protection of cultural heritage or traditions, and the environment (Article 1, Public Collections Law). Thus, tax deductibility may depend on how an NGO uses the donation.

IV. Specific Questions Regarding Local Law

A. Inurement

There are few restrictions on the ability of associations to distribute assets or income to members, employees, or others associated with the organization. Moreover, there are no provisions limiting administrative costs, reimbursement or compensation rates, or the distribution of remaining assets upon dissolution of an association.

The assets of a foundation or fund must be used in a manner consistent with the purposes and conditions set forth in the organization's governing instruments ([Article 21, Law on Foundations](#)). [4] In addition, the law precludes directors, comptrollers, and other members of a foundation or fund's governing bodies, as well as persons closely related to them, from receiving grants from the organization ([Articles 11\(4\) and 21\(5\), Law on Foundations](#)). Directors of a foundation or fund are permitted to receive reimbursement for their services to the foundation or fund, but not to be directly employed by it. There are no legal limitations on what compensation may be offered. [5]

In contrast, PBCs may not pay any reimbursement for services or salaries to members of the Board of Directors or the Supervisory Board, or to persons closely related to them. However, PBCs may reimburse members of the Board of Directors and the Supervisory Board for expenses related to travel and accommodations when attending a meeting outside of their domicile, and for other expenses pursuant to limits established in separate legislation ([Article 10, Law on PBCs](#)). In addition, the law broadly prohibits the use of the organization's profit for the benefit of its founders, members of its management bodies, or employees ([Article 2\(1\)\(c\), Law on PBCs](#)).

B. Proprietary Interest

The Law on Associations contains no provisions concerning residual or on-going proprietary interests of members in an association's property or income. Since association

members and donors can contractually agree to the terms of use for any property they contribute to an association, it is possible for outside parties to possess proprietary interests in an association's property. Although the Law on PBCs and the Law on Foundations do not explicitly prohibit the existence of proprietary interests, they are generally interpreted as barring such interests. The Law on Foundations explicitly prevents any person from exercising proprietary control over a foundation and prohibits a foundation from controlling another juridical person. There is one exception: a foundation can establish its own public benefit corporation.

C. Dissolution

Few normative rules govern the distribution of an association's property remaining after dissolution. An association, like a commercial entity, can generally distribute remaining assets to members upon dissolution. In situations where an association accepted donations supporting public benefit purposes, the legal vacuum has been the source of public scandals. [6]

In the event of the dissolution of a foundation or fund, all remaining assets must revert to another foundation or fund having similar public benefit objectives. In the absence of such a foundation or fund, the assets are transferred to the municipality where the organization is registered for publicly beneficial objectives. The recipient of the liquidation balance must use it for a public benefit purpose ([Article 9\(4\), Law on Foundations](#)).

In a similar fashion, the remaining assets of a PBC after dissolution may be transferred only to a PBC identified in the organization's charter or chosen by the board of directors after deciding to terminate the PBC and liquidate its assets. The founder(s) must concur ([Article 4\(4\), Law on PBCs](#)). If no PBC is willing to acquire the property, the remaining assets revert to the local government or the state (through the local government where it was registered) ([Article 9\(6-7\), Law on PBCs](#)). In this case as well, the assets must be allocated to a public benefit activity.

D. Activities

1. General Activities

Associations may engage in both mutual benefit and public benefit activities. In contrast, foundations, funds, and PBCs are statutorily required to pursue public benefit objectives (Article 1, Law on Foundations; Article 2(1), Law on PBCs). NGOs may not be established for the purpose of undertaking economic activities. The law does not explicitly prohibit political activities, with the exception of the rights that the law generally reserves only to political parties and political movements, such as registering a

candidate for election. Foundations, funds, and PBCs may not provide financial support to political parties and political movements.

2. Public Benefit Activities

As discussed above, all forms of NGOs may engage in public benefit activities. By their nature, foundations, funds, and PBCs must pursue only public benefit goals as their primary activity. Specifically, foundations and funds must promote “the development of spiritual values; protection of human rights or other humanitarian values; protection of the environment, cultural monuments and traditions; and developments in science, education, physical education and sports” ([Article 1, Law on Foundations](#)). The Law on PBCs requires PBCs to provide generally beneficial services open under specified conditions to the general public, but this term is not further defined (Article 2(1)(b), Law on PBCs). Slightly different definitions of public benefit purposes are used for the tax treatment of donors and donees (see Section III B above). [7]

3. Economic Activities

An association may not be established for the primary purpose of carrying out economic activities.

Foundations and funds are prohibited from engaging in economic activities directly or through other entities except for leasing real property in their endowment, and organizing lotteries, raffles, public collections, and cultural, social, sporting, and educational events ([Article 23\(1\), Law on Foundations](#)).

Foundations (but not funds) are allowed to hold up to 20 percent of the shares of a joint stock company and invest up to 20 percent of their property remaining after subtracting the value of their endowment in stocks of shareholding companies traded on regulated stock markets ([Article 23\(4\), Law on Foundations](#)).

PBCs may engage in so-called “complementary operations” (for example, economic activities) provided that these do not jeopardize the quality, scope, and availability of the organization’s public benefit services ([Article 17\(1\), Law on PBCs](#)). PBCs are prohibited from engaging in the entrepreneurial activities of other entities, and any profit earned from economic activities must be allocated to the organization’s reserve fund, which must be used primarily to cover losses occurring in subsequent years.

E. Political Activities

Czech law treats NGOs in the same manner as other legal entities and therefore allows them to support or oppose political candidates and to participate in lobbying and public advocacy activities. Associations may not operate as political parties or political movements ([Article 1 \(3\)\(a\), Law on Associations](#)), but nothing prohibits them from engaging in legislative or politically motivated activities. Similarly, foundations and funds are prohibited from financing political parties and political movements ([Article](#)

[21\(6\), Law on Foundations](#)), but they are not proscribed from engaging in general legislative and political activities (assuming the activities would be compatible with their public benefit requirements). The Law on PBCs likewise contains no specific prohibition on politically-related or lobbying activities.

F. Discrimination

The Czech Constitution explicitly prohibits discrimination based on, *inter alia*, sex, race, skin color, language, religion, political or other persuasion, national or social origin, or belonging to a national or ethnic minority (Article 3, Constitutional Act, [Article 3\(1\)](#), Charter on Fundamental Rights and Freedoms). Associations are explicitly prohibited from engaging in any activity that denies or restricts the civil rights of individuals because of their nationality, sex, race, origin, political opinions, or religious affiliation ([Article 4\(a\), Law on Associations](#)). According to leading Czech experts, due to the supremacy of constitutional laws over all other legislation, these provisions preclude a private school or other educational institution, as well as any other subject of the law, from discriminating based on race or ethnicity.

G. Control of Organization

Legal entities may not establish citizens' associations in the Czech Republic, although they may join these associations as members ([Article 2\(2\), Law on Associations](#)). That said, there are separate legal forms for associations of legal entities, as specified by the Civil Code. The Czech Constitution guarantees that foreign persons (natural and legal) have the same rights under Czech law as Czech citizens ([Article 42\(1\)](#), Charter on Fundamental Rights and Freedoms). Therefore, foreign individuals may found NGOs under Czech law. Foreign natural and legal persons are explicitly allowed to establish foundations and funds ([Article 3\(2\)\(b\), Law on Foundations](#)) and PBCs ([Article 3, Law on PBCs](#)).

The Law on Foundations limits interlocking control with other organizations. No one who has been a beneficiary of a foundation or fund may serve on the organization's board of directors. Nor may such a person serve as a member of a statutory or controlling body of a legal entity that has received funds from the foundation/fund as part of its statutory activities ([Article 11\(4\), Law on Foundations](#)). Similar restrictions apply to PBCs ([Article 10\(3\), Law on PBCs](#)). There are no restrictions on membership^s of foreigners in associations or in the governing bodies of foundations, funds and public benefit corporations.

V. Tax Laws

The following section discusses relevant tax legislation, recognizing that taxes may affect the amount of the grant actually flowing to the grantee.

A. Tax Exemptions

The Income Tax Law generally excludes from income taxation the income of an NGO earned in connection with the pursuit of its statutory activities, provided that the income is less than related expenses. Income from advertisements and facility rentals is subject to taxation (Article 18(3), Income Tax Law), but the income from membership fees as defined in the statutory documents of an association is exempt from income tax. The following juridical persons are subject to these parameters: “interest associations explicitly not established for income generating activities, associations of citizens including trade unions, political parties and movements, churches and religious congregations, foundations and funds, public benefit corporations, public universities, public research institutions, educational juridical persons, communities, organizational branches of the state, regional governments, state funds, EU and any other countries’ public budgets, and other subjects defined by law” (Article 18(8), Income Tax Law). These taxpayers are obliged to keep their accounting books in such a way that income and related expenditures subject to the income tax are separated from income and related expenditures not subject to or exempt from the tax.

A special exempt category is also reserved for yields resulting from economic use of a property that is part of the protected endowment of a foundation.

The income tax law also specifically states that NGOs are generally not required to pay income tax on interest on current accounts, state subsidies, and other income from their statutory activities, provided that the expenditures exceed the income from the activity (Article 18(4), Income Tax Law). Foundations, [\[8\]](#) funds, PBCs, and other public benefit NGOs are also generally exempt from the tax on donations (Article 20(4), Tax on Donations).

Income from profit-yielding economic activities that are related to the statutory purposes of an NGO is subject to a reduced tax. All related income is exempt from income tax up to CZK 300,000 (approximately USD 16,700). Total revenues (i.e., income minus related expenses) at the end of fiscal year that exceed this amount are reduced before taxation by 30% or CZK 1,000,000 (approximately USD 56,000), whichever is less, provided that the proceeds are used for statutory public benefit activities within the three following years and other conditions are met. [9]

In general, corporate income tax is calculated as 19 percent of the reduced tax base (income minus related expenses reduced by deductible portions and after applying the 30% reduction discussed above).

The following types of organizations generally are exempt from heritage and donation taxes: foundations and funds; public benefit corporations; registered churches and religious congregations; political parties; and other juridical persons with a seat in the

Czech Republic, in any other EU member state, in Norway or in Iceland, established to undertake activities according to special laws or otherwise in the fields of culture, education, protection of young persons, science, research, technology development, learning, health care, social care, ecology, protection of endangered animals, physical training, sport, training of children and youth as well as voluntary fire protection. Property obtained must be used for the above activities.

B. Deductibility of Charitable Contributions

The deductibility of a donation under Czech law is a function of the activity rather than the form of the recipient organization. In order to be deductible, a donation must be made for “financing science and learning, research and development, culture, schools, police, fire squads, support and protection of young people, protection of animals and their health, social and health care, ecology, humanitarian and charity purposes, religious purposes for registered churches and religious communities and sports as well as for supporting political parties in their activities.” Deductible donations can also be made to individuals residing in the Czech Republic and other EU members states, Norway and Iceland to support schools, health care establishments, and care for abandoned animals or endangered species (Article 15(1), Income Tax Law) as well as to handicapped individuals and children dependent on the assistance of another person who are residents of the Czech Republic. Similarly treated are donations to those suffering from natural disasters. In addition, a donor may receive a deduction for a donation to any legal entity that properly applied for and carried out a public collection under the Public Collections Law as discussed in Section III(B).

Individuals may deduct donations to qualifying NGOs up to 10 percent of the person’s taxable income. However, to qualify for the deduction, the individual must donate at least 2 percent of his/her taxable income or CZK 1,000. For legal entities, up to 5 percent of taxable income is deductible from the tax base. Another 5% of the tax base is deductible for donations to public health care establishments. NGOs exempt from donation tax may not make use of this tax deduction.

C. Value Added Tax

Under the VAT law that took effect in May 2004 and subsequent amendments, the standard VAT rate is 20%, with a lower 10% rate applied to some goods and services (Article 47 (1), Law on VAT). The lower VAT rate applies to most food products and goods of special importance for health care, social services, and similar activities. It is also applied to services, including wheelchair maintenance, water distribution, public transportation, health and social care, the care of children, ill and elderly persons provided in hospices, and many cultural activities.

Nevertheless, NGOs are no longer generally exempt from VAT on supplies relating to their statutory purposes. Instead, VAT exemptions are limited to specific activities, including:

- Income from renting facilities and equipment,
- Educational services and goods provided and used by registered schools, educational institutions, and universities, and by accredited vocational training facilities; exempt also are educational and free-time activities provided by state subsidized organizations and by not-for-profit NGOs of youth and children (Article 57, Law on VAT),
- Health insurance, services and goods provided by licensed entities to patients and persons covered by public health insurance, with the exception of ophthalmologist's services and pharmacological products, but including transportation of patients by specialized transportations means. The exception does not include the sale of pharmaceutical products and health supporting tools (Article 58, Law on VAT),
- Social services provided according to special laws (Article 59, Law on VAT),
- Provision of services as compensation for membership fees to members of political parties, churches and religious communities, associations of citizens, trade unions, professional chambers and to other juridical persons established for not-for-profit purposes, under the condition that the exemption would not jeopardize market competition (Article 61 (a), Law on VAT),
- Services and goods closely related to the protection and education of children and youth provided by public subjects or juridical persons that were not established for entrepreneurial purposes (Article 61 (b), Law on VAT),
- Rendering of working persons to churches and similar organizations to undertake activities related to tax exempt educational and social services (Article 61 (c), Law on VAT),
- Provision of sport and physical training related services by juridical persons that were not established for entrepreneurial purposes (Article 61 (d), Law on VAT),
- Provision of cultural services and related goods by the regional government, by a community, or by a juridical person established by the Ministry of Culture or juridical persons that were not established for entrepreneurial purposes (Article 61 (e), Law on VAT),
- Provision of services and goods by persons whose activities are exempt for educational, health care and social purposes provided that such goods are sold and services provided exclusively during occasional actions organized to raise funds for support of activities for which the organizations have been established, unless such an exemption would jeopardize market competition (Article 61 (f), Law on VAT),
- Provision of VAT-exempt services by independent groups of persons with legal personality exclusively to their own members without requesting deduction of paid VAT if these services are indispensable for the purpose of the groups' existence and the exemption would not jeopardize market competition (Article 61 (g), Law on VAT).

VAT must be paid by anyone whose turnover exceeds 1 million CZK (about USD 55,600) within the preceding 12 month period of time (Article 6 (1), Law on VAT).

Goods imported by an NGO from other EU member states up to a total value of CZK 326000 (about USD 18,100) within a calendar year are not included in the VAT calculation, with the exception of new cars or goods subjected to the consumption tax (Article 2 2b, Law on VAT). Also, any legal entity, including an NGO that accepts certain services from any VAT payer within the EU must report receipt within 15 days to be identified as a VAT payer (Article 96 and 97, Law on VAT). Services include: consulting, providing legal advice, accounting, data processing and information rendering, translating and interpreting. Services related to the transport of goods from abroad are exempt. The penalty for noncompliance with this reporting requirement is calculated as 10 percent of the value of the goods acquired without paying the VAT. The penalty for a regular VAT payer for not registering is calculated as 10 percent of the total income obtained for taxable activities and imported goods starting from the day of registration obligation until the day when declared as a VAT payer by the tax administrator (Article 98, Law on VAT).

Under certain conditions, it is possible to apply for a rebate of paid VAT. For example, if an NGO receives a donation or grant from abroad as a part of activities supported by an international agreement, it can request a rebate of VAT paid within 15 months **of** payment **being** made. The exception does not include grants provided by the European Union through its regular structural funds programs (Article 81, Law on VAT).

D. Property Tax

Real property tax is not imposed on property occupied in a building belonging to and serving a foundation, school, museum, art gallery, public library, health or social care institution, or an organization exclusively engaged in environmental protection. Undeveloped plots of land are also exempt from taxation if they belong to a foundation with an endowment or to a PBC and serve its purpose. Certain categories of buildings are also exempt from the property tax. These include buildings belonging to associations, PBCs, churches and foundations, if the buildings house schools, libraries, museums, galleries, archives, health or social services, foundations, associations of handicapped people or are used exclusively to improve the environment or for religious activities. Basic property tax has been doubled by Act No. 362/2009 effective January 1, 2010.

In situations where property is transferred free of charge, there is no tax imposed on the following entities: (Article 20, par. 10, Law on Donations)

- a) juridical persons with a seat in the European Union and established for activities in the fields of culture, education, upbringing or protection of children and youth, science, research, development, training, health care, social care, physical culture, sports, and fire fighting;
- b) registered churches or public benefit corporations with a seat in the European Union, if the property transferred is intended to be used in accordance with the laws governing churches or public benefit corporations or similar laws in the other countries of the European Union;

c) political parties or political movements, if the property shall be used in accordance with the respective laws;

d) foundations or funds with a seat in the European Union if the property transferred shall be used for the publicly beneficial purposes of the foundation or fund or in accordance with conditions set by the Law on Foundations or similar laws of other countries of the European Union; this applies also to a donation of property by such a foundation or fund granted in accordance with conditions set by the incorporation document or statute of the foundation of the fund;

e) health care insurance companies with a seat in the European Union, when the property will be used in accordance with the appropriate legal requirements.

E. Import Duties

Exemption from customs duties is tied to the nature and purpose of the goods rather than the type of organization importing them. Goods are exempted from customs duties only if: (i) they are donated; and (ii) there is no equivalent produced in the Czech Republic, or its importation would not jeopardize the interests of Czech producers. Goods eligible for exemption are those used for educational purposes, scientific work (such as equipment and tools), goods to be used to improve the cultural and living standards of handicapped people, goods to be distributed free of charge for charitable purposes, and items to be used by the blind.

Since May 1, 2004, the Czech Republic has been a member of European Union. Therefore, goods imported by an NGO from any other member state of the European Union, up to a total value of EUR 10,000 during a fiscal year, are exempt from import taxation and custom duties.

F. Double Tax Treaties

A double taxation treaty was signed in 1994 between the United States and the Czech Republic. Effective May 1, 2004, all regulation of double taxation between the United States and the European Union applies also to the Czech Republic. After this date, any provision of Czech law conflicting with general EU regulations ceased to be applicable.

VI. Knowledgeable Contacts

Petr Pajas, PASOS – Policy Association for an Open Society
Tesnov 3, 110 00 Praha 1
Czech Republic
petr.pajas@pasos.org

Lenka Deverová, attorney at law

Footnotes

[1] Juridical persons established according to special laws, including the Educational Juridical Person as established under the Law on Schools, are expected to undertake certain specialized activities with more specific and detailed regulations than those contemplated under the Act on Public Benefit Corporations.

The Educational Juridical Person was created in 2005 as a result of efforts by some ministries of the Czech Government to support the passage of special laws to enable the establishment of specialized legal forms by the state itself, by regional self-governments, or by any juridical or natural person. Public universities and public research institutes also have been created using special laws.

[2] Although the Law on Associations uses the term “citizens” and does not explicitly permit foreigners to establish associations, the Czech Constitution provides foreign persons (natural and legal) with the same rights as Czech persons under Czech law, unless otherwise stipulated in a particular law. (Article 42(1), Charter on Fundamental Rights and Freedoms).

[3] A legislative proposal being drafted in connection with efforts to significantly revise the Civil Code would amend the Act on Public Benefit Corporations to provide a PBC’s founders more explicit rights to decide about the role, rights, and obligations of its governing bodies and to keep in the founders’ hands more responsibilities.

[4] A government proposal on amending the Act No. 227/1995 is expected to be passed by Parliament before the June 2010 elections. Under Article 21(1) of these amendments, a PBC may be used not only for grants to other persons, but also to cover the expenses related to other activities of the PBC as well as its administration.

[5] Foundations and funds are also required to implement certain measures to control administrative costs by limiting administrative costs to a fixed percentage (to be determined by the organization) of total annual revenues, annual disbursements, or the size of the organization’s equity or assets at the end of the year (Article 22, Law on Foundations). Whatever method is selected may not be amended for at least five years.

[6] There are also ongoing lawsuits over the legality of the existence of an association of juridical persons in situations when all corporate members cancel their membership but management insists on the right to continue the activities of the association.

[7] Local experts anticipate that the revised Civil Code will enable any duly established juridical person to acquire Public Benefit Status if it can prove that it pursues a not-for-profit objective(s) and undertakes public benefit activities. This status would allow and organization to receive some tax benefits. A special law is expected to complement the Civil Code and outline required procedures and monitoring systems. The new legislation is expected to enter into force around the year 2012.

[8] Earnings of foundations from the rental of property in the foundation's endowment are also exempt from income tax (Article 19 (1)(r), Income Tax Law and Article 32, Foundation Act), so long as the property is formally registered as such.

[9] If the 30 percent tax base reduction yields less than CZK 1,000,000, an NGO may deduct up to CZK 1,000,000 but not more than the whole tax base. The use of this saved tax money is limited to offsetting losses from the unprofitable activities and in some cases must be expended within the next one or the three following fiscal periods. A requirement that an NGO maintain a separate accounting of profitable and unprofitable activities on occasion has meant that an NGO has a greater income tax liability (despite the 30 percent tax base reduction) than a for-profit entity. Unlike a for-profit entity, however, an NGO can not offset its earnings from certain activities with losses from all remaining unprofitable activities.