Nonprofit Law in Mexico

Current as of November 2025

This section describes the legal framework governing nonprofit organizations (also known as non-governmental organizations or NGOs) in Mexico, and includes translations of legislative provisions relevant for a foundation or advisor undertaking an equivalency determination of a foreign grantee under IRS Revenue Procedure 92-94.

These reports have been prepared by the International Center for Not-for-Profit Law (ICNL). Please direct corrections and comments to Lily Liu.

We include hyperlinks to the following information, to the extent available:

- Longer country reports analyzing various aspects of local legislation; and
- Texts of local laws that affect the decision whether or not to qualify a grantee (generally in translation, although ICNL and the Council cannot warrant the accuracy of any translation; in addition, legislative excerpts were selected by in-country contacts, and ICNL and the Council cannot warrant that all relevant provisions have been translated).

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I. Summary

A. Types of Organizations

Mexico is a civil law country with a federal structure, and recognizes four principal forms of non-governmental, not-for-profit organizations (NPOs):

- The civil association (AC), established pursuant to state civil codes;

- The private assistance institution (*institución de asistencia privada*) (IAP), established pursuant to state laws governing the subject; [1]
- The civil society (SC), established pursuant to state civil codes; and
- The trust (*fideicomiso*), established pursuant to federal law (*Ley General de Titulos y Operaciones de Crédito*) (LGTOC). [2]

Any of these organizational forms is entitled to seek certain benefits by registering under the Income Tax Law and/or the Law for Promotion of Civil Society Organizations. Registration under these laws is voluntary. An organization must meet specified criteria in order to register and to be eligible for attendant benefits.

Other not-for-profit legal forms, which are outside the scope of this Note because of their limited interaction with U.S. grantmakers, include religious associations, labor unions, and chambers of commerce.

B. Tax Laws

An NPO registered under Article 79 of the Mexican Income Tax Law is an "authorized donee," and as such is entitled to issue tax-deductible receipts to donors. Authorized donees are entitled to exemptions from the Income Tax Law. NPOs are not exempt from the Value Added Tax (VAT), however.

The United States has entered into a bilateral tax treaty with Mexico that enables U.S. taxpayers to make tax-deductible donations to certain NPOs from Mexican source income.

II. Applicable Laws

Other authorities consulted in preparing this Note:

- Constitution of Mexico
- Código Civil para el Distrito Federal (CCDF)

- *Código Civil de los Estados Unidos Mexicanos*
- *Código Civil (CC) del Estado de:*
    - Aguascalientes
    - Durango
    - Nayarit
    - Sonora
    - Baja California
    - Guanajuato
    - Nuevo Leon
    - Tabasco
    - Baja California Sur
    - Guerrero
    - Oaxaca
    - Tamaulipas
    - Campeche
    - Puebla
    - Tlaxcala
    - Chiapas
    - Jalisco
    - Querétaro
    - Veracruz
    - Chihuahua
    - México
    - Quintana Roo
    - Yucatán
    - Coahuila
    - Michoacán
    - San Luis Potosí
    - Zacatecas
    - Colima
    - Morelos
    - Sinaloa
    - Hidalgo

- Código Administrativo del Estado de Chihuahua (Cod. Adm. Chihuahua)
- Ley del Impuesto Sobre la Renta (LISR)
- Ley de Instituciones de Asistencia Privada para la Ciudad de México (LIAPDF)
- Ley de Instituciones de Asistencia Privada del Estado de México (LIAP México)
- Ley de Asistencia Social y Privada para el Estado de Quintana Roo
- Ley de Instituciones de Beneficencia para el Estado de Baja California (LIBP BC)
- Ley de Instituciones Beneficencia Privada del Estado de Nuevo León
- Ley de Instituciones de Asistencia Privada del Estado de Campeche
- Ley de Instituciones de Asistencia Privada para el Estado de Guerrero
- Ley de Instituciones de Asistencia Privada del Estado de Michoacán
- Ley de Instituciones de Asistencia Privada para el Estado Libre y Soberano de Puebla
- Ley de Instituciones de Asistencia, Promoción Humana y Desarrollo Social Privadas del Estado de Oaxaca (Decreto 312 Oaxaca)
- Ley de la Junta de Asistencia Privada del Estado de Chihuahua
- Ley para el Fomento y Regulación de las Instituciones de Asistencia Privada del Estado de Querétaro
- Ley sobre Fundaciones y Asociaciones de Beneficencia Privada para el Estado de Durango
- Ley del Impuesto al Valor Agregado (LIVA, or, in English, VAT)
- Ley de Inversión Extranjera
- Ley General de Cambio Climático
- Ley General de Educación
- Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil (Federal Law for the Promotion

of Activities Undertaken by Civil Society Organizations) (Promotion Law) [Spanish] [English]

- Ley de Fomento a las Actividades de Desarrollo Social de las Organizaciones Civiles para el Distrito Federal (LFADF)
- Ley General de Títulos y Operaciones de Crédito (LGTOC)
- Ley de Fomento a las Actividades de Bienestar y Desarrollo Social para el Estado de Baja California
- Ley de Fomento a las Actividades de las Organizaciones Civiles del Estado de Morelos
- Ley de Fomento a las Actividades de las Organizaciones Civiles del Estado de Tamaulipas
- Ley de Fomento a las Actividades de Desarrollo Social de las Organizaciones Civiles para el Estado de Veracruz-Llave
- Ley que Regula el Otorgamiento de Recursos Públicos a las Organizaciones Sociales del Estado de Tlaxcala
- Ley de Fomento a las Actividades Realizadas por la Organizaciones de la Sociedad Civil en el Estado de Zacatecas y sus Municipios
- La Ley para la Protección de Personas Defensoras de Derechos Humanos y Periodistas
- Reglamento de la Ley del Impuesto Sobre la Renta (RLISR)
- Reglamento de la Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil
- Reglamento para las Instituciones de Asistencia Privada del Estado de Sonora
- Reglamento de la Ley de Instituciones de Asistencia Privada para el Distrito Federal
- Reglamento de la ley de Fomento a Las Actividades de Desarrollo Social de Las Organizaciones Civiles para El Distrito Federal
- United States-Mexico Tax Treaty (for the purpose of avoiding double taxation)
- Vivian L. Cavalieri, “Grantmaking in Mexico” in International Dateline (Issue 48, August 1998)

- Emilio Carrillo Gamboa, Mexico Country Report in The International Guide to Nonprofit Law (Lester M. Salamon, Ed., 1997)
- Consuelo Castro, Mexico Country Report in "Las Fundaciones en Iberoamérica: Régimen Jurídico" (José Luis Piñar Mañas, Ed.,1997)
- Consuelo Castro Mexico Country Report in "El Tercer Sector Iberoamericano: Fundaciones, asociaciones y ONGs." 2001 (José Luis Piñar Mañas,Ed., 2000)
- Official tax information on donations and grantees
- 16 Pasos para Crear tu Propia Organización

III. Relevant Legal Forms

A. Civil Associations

According to the Civil Code for the Federal District (CCDF), a civil association (AC) is formed "when various individuals agree to join together, in a manner that is not entirely transitory, to realize a common purpose that is not prohibited by law and that is not predominantly economic in character" (CCDF Article 2670). There is no explicit minimum number of persons needed to form an AC, though the CCDF indicates that there must be more than one. Foundations in all Mexican states may also be formed as ACs.

Although the federal and state civil codes provide that ACs are governed by their statutes, the codes typically provide a structure of governance for the association to follow. An AC must register its name at the Ministry of Economy and register its statutes with the Public Registry of Property. The supreme authority of an association resides in its general assembly (CCDF Article 2674). [3]

An AC can be terminated for several reasons other than those provided in its statutes: if the term fixed for its duration concludes; if the purpose for which it was founded has been completely accomplished; or if the association has become incapable of realizing the object for which it was

founded. An AC can also be terminated with the consent of its general assembly or by a decision promulgated by the competent authority in the state where the association is registered (CCDF Article 2685).

B. Private Assistance Institutions

A private assistance institution (IAP) is an organization formed in accordance with state law for the purpose of providing social and humanitarian assistance. [4] The Law of Private Assistance Institutions for the Federal District (LIAPDF) provides that IAPs carry out their activities with private property and do not seek a profit. [5] They may be formed for a temporary purpose – for example, to meet the needs brought about by a natural disaster, war, or other calamity (LIAPDF Article 2, IX). IAPs, like other organizations, must register for authorized donee status.

C. Civil Societies

A civil society (SC) is formed by a contract in which the members mutually obligate themselves to combine their resources or efforts in order to realize a common purpose of a predominantly economic character. The goal of the society must not, however, constitute commercial speculation (CCDF Article 2688).

An SC is governed by the provisions of its social contract, which must be included in the Public Registry of Property in order to have effect vis-á-vis third parties (CCDF Article 2691). At least two people are needed to form a civil society. [6]

D. Trusts

Trusts (*fideicomisos*) are governed by the federal General Law of Titles and Operations of Credit (LGTOC). A trust is created when a donor dedicates property to a particular lawful purpose, which may be for either private or public benefit. [7]

IV. Public Benefit Status

Under the Income Tax Law, organizations are eligible for "authorized donee status" if they engage in certain publicly beneficial activities and comply with certain rules and regulations. This status entitles the authorized donee to issue tax-deductible receipts to donors.

The Promotion Law provides for registration of organizations that are engaged in certain publicly beneficial activities and that meet certain requirements. Registration under this law makes an organization eligible to receive government funding for certain activities, but does not by itself provide any benefits.

Both laws provide a list of eligible "public benefit" activities; these lists overlap, but only in part.

Authorized Donees. Organizations eligible to seek authorized donee status include ACs, IAPs, SCs, and trusts that: provide aid to the needy, including subsistence support, medical and psychological care, and educational and employment training; provide domestic violence, legal, and funeral assistance; work to prevent and respond to disasters; work with refugees and migrants and on gender equality issues; engage in educational activities certified pursuant to the General Education Act, scientific or technological research, environmental protection, or wildlife conservation; support culture and the arts, preservation of national treasures, or defense and promotion of human rights; promote citizen participation in matters of public interest, gender equality, or civil protection; support the creation and strengthening of organizations that carry out activities subject to the Federal Law of Promotion of Activities Performed by Civil Society Organizations; or engage in the promotion and defense of consumer rights; grant scholarships; make grants to other authorized donees; or perform work and public services by a written agreement with a public entity. [8]

An authorized donee, regardless of its organizational form (AC, IAP, SC, or trust), must comply with a number of operational and financial rules set forth in Article 82 of the LISR, which governs grantmaking organizations. Specifically, an authorized donee must pursue the goals for which it was founded as its primary purpose and devote its assets exclusively to the purposes for which it was organized and which were authorized by tax authorities. It may not disburse assets to any individual or entity except as payment for services rendered or transfers to other organizations with authorized donee status. It may not participate in political activities. Upon the organization's dissolution or tax residence change, any surplus must be transferred to another organization eligible to receive tax-deductible donations; further, this rule must be set forth in an irrevocable provision of the organization's statutes.

Authorized donee status must be renewed every year and may be revoked by the Tax Administration Service (*Servicio de Administración Tributaria*, or SAT). The renewal depends entirely on an organization's compliance with its tax obligations. All authorized donees must regularly submit a transparency report, indicating their income, expenses, and other financial details, as how many people have impact of their activities, An authorized donee must also inform the tax authorities about any transactions with related parties, and about services provided and goods acquired from the organization's donors (LISR Article 80).

Law on Promotion of Civil Organizations. Organizations that can register under the Law on Promotion are those incorporated as an AC, IAP, or SC that engage in activities in one or more of the following areas:

- Social assistance;
- Social health;
- Civic development;
- Legal assistance;

- Rural and indigenous development;
- Promotion of gender equality;
- Support for services for differently-abled persons;
- Community development;
- Defense and promotion of human rights;
- Promotion of sports;
- Health and sanitation;
- Environmental protection;
- Urban and rural development;
- Promotion of education;
- Culture, the arts;
- Science and technology;
- Improvement of the economy;
- Civil protection;
- Promotion and defense of consumers' rights;
- Services for persons with disabilities;
- Strengthening of the social fabric; and
- The creation and strengthening of civil society.

Registrants are entitled, among other things, to participate as consultative bodies in conformity with the Law of Planning and other applicable laws; to integrate themselves into organs of participation and consultation established by the Federal Public Administration (FPA); to cooperate with competent authorities in agreements to lend public services; and to participate in planning, executing, and monitoring policies, programs, projects, and processes that the FPA undertakes.

To qualify for registration, the organization must heed operational, accounting, and reporting rules set forth in the law. These include having an accounting system consistent with generally accepted accounting rules; reporting annually to the Commission of Promotion of Activities for Civil Society Organizations about activities, accomplishments, financial balance, and use of public support and

benefits; and directing the remainder of assets, in the case of dissolution, to another registered organization.

The registry established under the Promotion Law was created in January 2005, and registration is required in order to receive particular benefits. For example, only registered organizations are eligible for some forms of governmental funding, including the so-called Co-investment Development Funds given by the Ministry of Social Development. The registry is overseen by the Social Development Institute (*Instituto de Desarrollo Social*, or INDESOL) or other entity that is part of the Social Development Ministry.

V. Specific Questions Regarding Local Law

Generally speaking, authorized donees and organizations registered under the Promotion Law are subject to stricter rules than are organizations that opt not to apply for authorized donee status or to register under the Promotion Law.

A. Inurement

Authorized Donees. Private inurement is prohibited for authorized donees. An authorized donee may not disburse assets to any individual or entity except as payment for services rendered or transfers to other organizations with authorized donee status (LISR Article 82(IV)).

Scholarship-granting associations and civil societies with authorized donee status pursuant to Article 82 must comply with the same rules (LISR Article 83). The scholarships must be open to the general public, and must be granted for studies at educational institutions acknowledged officially by the Ministry of Education (domestic institutions) or the National Council of Science and Technology (CONACyT) (foreign institutions).

A grantmaking organization or trust with authorized donee status pursuant to Article 82 must apply all revenue to the purpose for which it was created; and, upon liquidation, it must transfer any surplus to other organizations with authorized donee status. These requirements must be included in the organization's bylaws and must be irrevocable (LISR Article 82).

Organizations Registered under Promotion Law. An NPO qualifying under the Promotion Law must not undertake activities in pursuit of self-interest or the mutual interest of the organization's members, including distributing profits or any material benefits to members. It must not have relationships of interest or familial relationships between its directors and its beneficiaries

Civil Associations (ACs) without Authorized Donee Status and Not Registered under Law of Promotion. Civil codes governing civil associations do not specifically prohibit inurement to private persons or for-profit organizations.

Private Assistance Institutions without Authorized Donee Status and Not Registered under Law of Promotion. Both state and federal laws applicable to IAPs prohibit private inurement. Under state law, the IAP generally cannot designate individual beneficiaries (LIAPDF Article 1). Board members cannot buy or lease the assets of the institution, or make any contract concerning the assets, to benefit themselves or anyone related to them (LIAPDF Article 45(XIII)). Diversion of the institution's funds for purposes other than those of the institution can lead to removal of the responsible board members (LIAPDF Article 103(V)).

Civil Societies (SCs) without Authorized Donee Status and Not Registered under Law of Promotion. Under the civil codes, a civil society must not limit its benefits (or its losses) to specific members. An

arrangement to the contrary will render the society void (CCDF Article 2696).

Trusts without Authorized Donee Status and Not Registered under Law of Promotion. Property held in trust must be used for the purposes for which the trust was founded (LGTOC Article 381-407). The fiduciary duty of the trustee, who is obligated to carry out the activities of the trust according to its constitutive act, provides additional protection against private inurement.

B. Proprietary Interest

The Mexican Income Tax Law prohibits donors from retaining a proprietary interest in contributions to NPOs with authorized donee status. Authorized donees must dedicate their assets strictly to the stated purposes (LISR Article 82(I) (governing IAPs and eligible civil associations and civil societies); LISR Article 83 (applying Article 82(IV) requirements to eligible scholarship-granting organizations); LISR Article 82(I) (governing grantmaking organizations). Upon liquidation, these organizations must transfer their assets to other organizations eligible to receive tax-deductible donations (LISR Article 82(V), 83). Government entities are also eligible to receive tax-deductible donations for this purpose. Organizations must address these issues in irrevocable provisions of their bylaws.

Organizations Registered under the Promotion Law. An NPO qualifying under the Promotion Law must dedicate its assets to the authorized activities. In the event of dissolution, the organization must transfer the remainder of its assets to another organization qualifying under the Promotion Law.

Civil Associations (ACs) without Authorized Donee Status and Not Registered under Law of Promotion. The members of a civil association

can retain a proprietary interest in their contributions to the organization. [9]

Private Assistance Institutions (IAPs) without Authorized Donee Status and Not Registered under Law of Promotion. State law applicable to IAPs addresses the question of proprietary interest. Under state law, once an IAP is established, the founder may not reclaim his contribution to the IAP endowment (LIAPDF Article 6). However, if the government interferes with the assets (e.g., enters into contracts concerning the assets of an IAP by substituting itself for the board of the institution), the assets may revert to the founder or his/her heirs (LIAPDF Article 6).

Civil Societies (SCs) without Authorized Donee Status and Not Registered under Law of Promotion. The members of a civil society can retain a proprietary interest in their contributions to the organization. [10]

Trusts without Authorized Donee Status and Not Registered under Law of Promotion. Under the federal law governing trusts, the founder of a trust or his/her heirs retain a reversionary interest in the property given for the establishment of the trust (LGTOC Article 358).

C. Dissolution

General

The key factors affecting dissolution procedures are whether an NPO has authorized donee status and/or is registered under the Promotion Law. If either of those conditions applies, then upon its dissolution, the NPO's assets must be assigned to another NPO with the same status (authorized donee status and/or Promotion Law registration). If, by contrast, the NPO neither has authorized donee status nor qualifies

under the Promotion Law, then it is generally free to dispose of assets as it wishes upon dissolution.

Authorized Donees

If an organization has authorized donee status, then its assets, upon dissolution, must be transferred to another NPO with authorized donee status (LISR Article 82(V) (governing IAPs and eligible civil associations and civil societies); LISR Article 83 (applying Article 82 requirements to eligible scholarship-granting organizations). The issue must be addressed in an irrevocable bylaw (LISR Article 82-83).

If an authorized donee changes its tax residence (that is, the country where the donee pays taxes), the organization is considered dissolved. Accordingly, it is obliged to transfer its resources to other authorized donees. If the donee's authorization is revoked and not reinstated within one year, the organization is not dissolved but is likewise obliged to transfer its resources to other authorized donees.

Organizations Registered under the Promotion Law

If an organization registers under the Promotion Law, then upon dissolution, its assets must be transferred to another NPO qualifying under the Promotion Law.

Civil Associations without Authorized Donee Status and Not Registered under the Promotion Law

Upon dissolution, the assets of a civil association (AC) must be disposed of in accordance with its statutes. If the statutes do not address dissolution, the board must decide how to dispose of the assets. In such a case, the board may return members' contributions. The remaining assets will be transferred to another association or foundation with a similar purpose, or to state-controlled public welfare agencies (CCDF Article 7906).

Private Assistance Institutions (IAPS) without Authorized Donee Status and Not Registered under the Promotion Law

An IAP will be terminated upon petition of its board of directors or by declaration of the Private Assistance Board (*Junta de Asistencia Privada*) the official regulatory body. Upon the termination of an IAP, the Board may, before the liquidation of the institution, resolve that the assets will become part of the endowment of another IAP. The Board may also unilaterally use the assets to create a new IAP (LIAPDF Article 39). After the liquidation takes place, the Board disposes of any remaining assets, according to the wishes of the founder. If the statutes do not address the distribution of remaining assets upon dissolution, the assets will pass to an IAP with similar purposes chosen by the Board (LIAPDF Article 39).

Civil Societies without Authorized Donee Status and Not Registered under the Promotion Law

When a civil society (SC) is voluntarily dissolved, its capital and profits may be shared by its members upon dissolution and before liquidation of the society, unless there is agreement to do otherwise (CCDF Article 2728). After the society has paid its debts, the members will be reimbursed for the contributions they made.

Trusts without Authorized Donee Status and Not Registered under the Promotion Law

Upon the termination of a trust, trust property given by the donor for the establishment of the trust is returned to the trustee or beneficiaries, unless there is an agreement to do otherwise (LGOTC Article 393).

D. Activities

1. General

Authorized Donees. Authorized donees are eligible for this status by virtue of engaging exclusively in certain types of nonprofit activities deemed to be in the public benefit.

Organizations Registered under the Promotion Law. Similarly, organizations that qualify to register under the Promotion Law are those that engage exclusively in certain activities deemed to be for the public benefit. The public benefit activities listed in the Tax Law (governing authorized donees) and those listed in the Promotion Law differ but overlap in part.

Civil Associations without Authorized Donee Status and Not Registered under the Promotion Law. A civil association may undertake any lawful activity to realize any purpose that is not prohibited by law and is not predominantly economic in character (CCDF Article 2670).

Private Assistance Institutions without Authorized Donee Status and Not Registered under the Promotion Law. Generally speaking, IAPs carry out activities with a humanitarian or philanthropic purpose (LIAPDF Article 1).

Civil Societies without Authorized Donee Status and Not Registered under the Promotion Law. Societies are formed to realize an economic purpose, but the purpose may not constitute "commercial speculation" (CCDF Article 2688).

Trusts without Authorized Donee Status and Not Registered under the Promotion Law. A trust may be established to carry out any lawful purpose (LGTOC Article 381). A fiduciary institution serving as a trustee may engage in any action required to carry out the purpose of the trust, subject to the norms and limitations established upon the creation of the trust (LGTOC Article 356).

2. Public Benefit Activities

Authorized Donees. Authorized donees are eligible for this status by virtue of engaging exclusively in certain types of activities deemed to be in the public benefit. Activities that qualify an organization for authorized donee status are:

- Provision of aid to the needy (including subsistence, medical, psychological, intra-family violence, legal, disaster-related, employment training, funeral assistance, support to disability groups, support to indigenous communities, and promotion of the social economy);
- Support for educational institutions, technological or scientific research, culture and the arts, wildlife conservation, environmental protection, and preservation of national treasures;
- Granting scholarships for studies at certified educational institutions;
- Aid or grants to authorized donees or to the government;
- Performing work and public services by agreement with a public entity;
- Promotion of citizen participation in matters of public interest, gender equality, civil protection;
- Support for the creation and strengthening of organizations that carry out activities subject to the Federal Law of Promotion of Activities Performed by Civil Society Organizations;
- Promotion and defense of consumer rights;
- Promotion and defense of human rights; and
- Support for productive projects (in agriculture as well as artisanal crafts).

Organizations Registered under the Promotion Law. Organizations registered under this Law must engage in the following types of public benefit activities: social assistance, social health, civic development, legal assistance, rural and indigenous development, promotion of gender equality, services for persons with disabilities, community

development, defense and promotion of human rights, promotion of sports, health and sanitation, environmental protection, urban and rural development, promotion of education, culture, the arts, science and technology, improving the economy, civil protection, promotion and defense of consumers' rights, strengthening of the social fabric, and support for the creation and strengthening of civil society.

Civil Associations without Authorized Donee Status and Not Registered under the Promotion Law. Civil associations need not pursue public benefit activities unless they seek authorized donee status or registration under the Promotion Law.

Private Assistance Institutions without Authorized Donee Status and Not Registered under the Promotion Law. Generally speaking, IAPs carry out activities with a humanitarian or philanthropic purpose. Examples of acceptable activities include assistance, protection of persons in need, and the incorporation of marginalized persons into productive life. Temporary IAPs may be formed to provide aid after a natural disaster, war, or economic hardship (see, for example, LIAPDF Article 2(IX)).

Civil Societies without Authorized Donee Status and Not Registered under the Promotion Law. Civil societies need not pursue public benefit activities unless they seek authorized donee status or registration under the Promotion Law.

Trusts without Authorized Donee Status and Not Registered under the Promotion Law. A charitable trust establishes its purposes in its trust document. It need not pursue public benefit activities unless it seeks authorized donee status or registration under the Promotion Law.

3. Economic Activities

Authorized Donees and Organizations Registered Under the Promotion Law. No specific rules prohibit authorized donees or organizations registered under the Promotion Law from engaging in economic activities. NPOs authorized to receive tax-deductible donations from other countries under the Double Taxation Treaty, however, must not receive an excessive amount of income from leases, interest, dividends, gifts, or activities unrelated to their social purpose (LISR Article 82(1)). The threshold for "excessive" is one-third of the organization's total annual income (RLISR Article 116). However, organizations with authorized donee status may engage in "unrelated business activities" (LISR Article 80). According to a Presidential Decree, in 2019, authorized donees will begin paying taxes for "unrelated business activities" if these exceed 10 percent of the organization's income. If an organization's "unrelated business" exceeds 50% of its annual income, the organization will lose its authorized donee status.

Civil Associations (ACs). The civil codes do not prohibit civil associations from engaging in economic activities. However, the primary purpose of a civil association must not be of a predominantly economic character (CCDF Article 2670).

Private Assistance Institutions. Generally speaking, IAPs may carry out any type of economic activities to raise funds, with certain prohibitions on their ability to invest in certain securities, make loans, purchase real estate, and fundraise (LIAPDF Article 45, Articles 60-63). Many economic activities must first be approved by government regulators.

Civil Societies (SCs). Nothing in the civil codes precludes civil societies from carrying out any type of economic activity. In fact, the activities of a society are generally economic in nature. The one limitation is that a society is barred from engaging in "commercial speculation."

Trusts. A fiduciary institution may engage in any action required to carry out the purpose of the trust, subject to the norms and limitations established upon creating the trust (LGTOC Article 356).

E. Political Activities

According to the tax reforms published on December 11, 2013, NPOs with authorized donee status are now expressly able to engage in advocacy activities aimed to influence legislation, provided that such activities are unpaid and are not carried out on behalf of any donor (LISR Article 82(III)). Organizations must disclose all such activities in their transparency report, including information such as the political party the organization was working with. Authorized donees are prohibited from promoting supporting political candidates or political parties.

NPOs qualifying under the Promotion Law must not promote partisan political ends.

Other NPOs are generally free to engage in political activities, allowed pursuant to the political party and electoral reform legislation passed in May 2014.

F. Racial Discrimination

The Constitution of Mexico prohibits discrimination on the grounds of race (Article 1 Paragraph 3). NPOs qualifying under the Promotion Law, in addition, must act with impartiality and must not discriminate when determining beneficiaries.

G. Control of Organizations

Mexican charities may be established by natural or legal persons, both domestic and foreign. Therefore, it is possible that a Mexican NPO may be controlled by a for-profit entity or an American grantor charity.

VI. Tax Laws

An amended Income Tax Law was published on December 11, 2013, which among other things eliminated the flat rate business tax. The revised legislation is discussed below.

A. Tax Exemption

The following organizations are exempt from income tax pursuant to Section 79 of the Federal Income Tax Law of Mexico (*Ley del Impuesto sobre la Renta,* LISR): organizations with authorized donee status (whether IAP, AC, SC, or trust) that provide aid to the needy; engage in teaching or scientific research; promote environmental protection; support culture and the arts; preserve national treasures; promote education certified under the General Education Act; engage in scientific or technological research with accompanying registration in the National Registry of Scientific and Technological Institutions; or engage in the promotion and defense of human rights(LISR Article 79). Following tax reforms adopted in December 2013, the possibility of obtaining authorization to receive tax-deductible receipts was extended to organizations dedicated to the promotion of citizen participation in matters of public interest; promotion and defense of human rights, promotion of gender equality; civil protection; support for the creation and strengthening of organizations that carry out activities subject to the Federal Law of Promotion of Activities Performed by Civil Society Organizations; and the promotion and defense of consumer rights.

The LISR permits organizations with authorized donee status to perform "unrelated business activities" (LISR Article 80). However, according to a decree that will enter into force in 2019, if the income from unrelated business activities exceeds 10 percent of the organization's total annual income, it is subject to income tax. Donations, membership fees, and bank interest, as well as income from the disposition of property or from the lease of real property, are not considered to constitute business

activities and are therefore tax-exempt. The general rate for income tax is 30 percent (LISR Article 9). If unrelated activities constitute more than 50% the organization's activities, the organization will lose authorized donee status.

In 2015, tax authorities established in their internal rules specific causes for the withdrawal of the tax exemption. As a result, the exemption may be withdrawn on the grounds of, for instance: undertaking activities outside of the permissible social objectives or financing commercial legal entities.

B. Tax Treatment of Donations

Legal persons based in Mexico making donations to organizations with authorized donee status can deduct up to 7 percent of the taxable income (*utilidad fiscal*) paid in the prior fiscal year for corporations as well as for individuals. However, only 4 percent of the 7 percent can be granted to governmental entities (LISR Article 27(I)).

Starting in 2017, grassroots communities can receive donations from private foundations that are authorized donees in accordance with certain established procedures.

Individuals only can deduct at 15% of their annual income the following expenses: medical expenses, mortagage, medical insurance and donations. The donations in individuals have two limits, the first one is the 7% and the following is such amount can be in order with the limit of 15% of allowed expenses.

C. Value Added Tax

Natural and legal persons that engage in the transfer of goods, the provision of services, the grant of temporal use or enjoyment of goods, or the importation of goods or services within the national territory of Mexico are obligated to pay value added tax (*Ley del Impuesto al Valor*

Agregado (LIVA) Article 1). The standard rate for the tax is 16 percent. Private charity institutions and associations must pay the VAT (LIVA Article 1). As of 2020, organizations with authorized donee status are no longer exempt and must pay the VAT as well (LIVA Article 15(VII)).

D. Import Taxes

Organizations with authorized donee status that receive goods donated from abroad may apply for import tax exemption. An organization may structure these donations in one of two ways. It may directly import the goods by retaining the services of a professional customs agency to handle procedures involved in the import. Alternatively, an organization may arrange to have Mexican fiscal authorities act as intermediaries and facilitate the acquisition of relevant permits before other ministries such as the Ministry of Health (*Secretaría de Salud*), and the Ministry of Economy (*Secretaría de Economía*), among others. The goods, which are received by the fiscal authorities, are ultimately transferred to the organization.

The following types of exempt in-kind donations may be of particular relevance to NPOs: ambulances and mobile clinics, school buses and computers for educational institutions, fire engines, garbage trucks, medical equipment and laboratory instruments, wheel chairs, and orthopedic equipment.

E. Double Taxation Treaty

Mexico is a party to a Double Taxation Treaty with the United States. Article 22 of the Treaty deals with exempt organizations. It provides:

"2. If the Contracting States agree that a provision of Mexican law provides standards for organizations authorized to receive deductible contributions that are essentially equivalent to the standards of United States law for public charities:

(a) An organization determined by Mexican authorities to meet such standards shall be treated, for purposes of grants by United States private foundations and public charities, as a public charity under United States law; and

(b) Contributions by a citizen or resident of the United States to such an organization shall be treated as charitable contributions to a public charity under United States law."

Such contributions are deductible only for U.S. taxpayers with income from Mexican sources, and the extent of the deduction depends on the magnitude of the Mexican source income.

In January 2023, Mexico's Tax Service Administration (SAT) made an internal ruling that the Double Taxation Treaty prohibits an authorized donee whose objective is to support other authorized donees from giving donations to a 501(c)(3) organization.

F. Equivalency Determination Under IRS Information Letter 2003-0158

Grantmakers may no longer automatically treat a Mexican charity as equivalent to a section 501(c)(3) organization. In 2003, the IRS stated that a U.S. grantmaker could treat Mexican charities formed in accordance with Article 70-B of the Mexican Income Tax Law to be equivalent to a 501(c)(3) organization under U.S. law (IRS Information Letter 2003-0158). However, Mexico has since amended the Income Tax law, and charities formerly called "Article 70-B" organizations can now engage in lobbying, an activity that U.S. law restricts for 501(c)(3) organizations.

G. Anti-Money Laundering Regulation

Mexico's federal law to counter money laundering (*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*) and its accompanying regulations impose heavy

requirements on reporting, retaining, and safeguarding of certain information and documentation. The new anti-money laundering legislation will likely have a major regulatory impact on the nonprofit sector, as it considers donations to be a potentially suspect activity. It will be a challenge for many organizations to comply with burdensome reporting obligations, such as those requiring detailed information on donors. [13]

Footnotes

[1] IAPs are further denoted as either associations or foundations, but the distinction is not generally significant for the purposes of this Note.

[2] Organizations carrying the name "foundation" can be civil associations or IAPs.

[3] For more information, see *Construyendo Tu Organización en 16 Pasos*, a manual on the creation of a civil association: http://www.alternativasycapacidades.org/sites/default/files/16%20pasos%202a.edici%C3%B3n.pdf

[4] See, e.g., *Ley de Instituciones de Asistencia Privada para el Distrito Federal*; *Ley de Beneficencia para el Estado de Baja California*; *Código Administrativo del Estado de Chihuahua*; *Ley de Asistencia Privada del Estado de México*. IAPs are closely regulated by state bodies called *Juntas de Asistencia Privada,* or *Juntas de Beneficencia Privada*.

[5] See LIAPDF Article 1. They may not designate specific individuals as beneficiaries (LIAPDF Article 1). Natural or legal persons may form an IAP (LIAPDF Article 8). An IAP can be set up as a foundation or an association.

[6] See, for example, CCDF Article 2688, referring to the plural "*socios*" as forming a society without specifying an exact number.

[7] See LGTOC Article 346. The trust may be created during the life of the donor (through a trust instrument) or upon the death of the donor (through a will). The donor designates a fiduciary institution, which must be authorized under the General Law of Titles and Operations of Credit, to carry out this purpose as trustee (LGTOC Article 381).

[8] If an organization performs work and public services that help a public entity, and are carried out under a written agreement, it may be authorized to receive tax-deductible receipts even if the activity is not included in the list described under Article 79 (RLISR Article 31).

[9] See, e.g., CC Chiapas Article 2659 (stating that, in the case of dissolution, the general assembly may return to each member only the amount that the member contributed to the association).

[10] See, e.g., CCDF Article 2689; CC Chiapas Articles 2701, 2703 (discussing the return of contributions to members upon the liquidation of a society).

[11] Qualifying organizations (See LISR Article 82) that lose authorized donee status are allowed to transfer their donations to another authorized donee without the 7 percent deductibility limit of taxable income, during the fiscal year in which the authorization was revoked or not renewed (LISR Article 79). Private Assistance Institutions are not allowed to transfer donations after losing authorized donee status.

[12] LISR Article 82 (III) on "nonprofit legal persons" provides that "The persons referred to in this article may undertake activities aimed to influence legislation, provided that such activities are unpaid and are not undertaken for persons or sectors that have granted donations, and also

provided that the Tax Administration Service is given the following information:

a) The subject matter of study.
b) The legislation intended to be promoted.
c) The legislators with whom promotion activities are to be done.
d) The social, industrial, or branch of economic activity that would benefit from the proposed sector.
e) The materials, data, or information that contribute to legislative bodies, clearly identifiable as to their origin and authorship.
f) Conclusions.
g) Any other related information as determined by the Tax Administration Service by general rules."

[13] According to the new law and its implementing regulations, for instance, if an organization receives a donation exceeding $181,589.70 Mexican Pesos (approximately $9,700), it must create a file containing detailed information on the donor with supporting documentation. If the organization receives more than $363,179.40 Mexican Pesos (approximately $19,500), it has to file an electronic notification with the *Unidad de Inteligencia Finaciera* (Finance Intelligence Unit).