

NONPROFIT LAW IN KOSOVO



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This report describes the legal framework governing nonprofit organizations (also known as non-governmental organizations or NGOs) in the Philippines, 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

The three recognized forms of domestic non-governmental organizations (NGOs) in Kosovo are foundations (non-membership organizations), associations (membership organizations) and institutes (Law on Freedom of Association in NGOs Article 19). Foreign NGOs may conduct activities in the territory of Kosovo, provided that they register and substantially meet specified requirements imposed on domestic NGOs (Law on Freedom of Association in NGOs Article 24). Both foreign and domestic NGOs may apply for "public beneficiary status" (Law on Freedom of Association in NGOs Article 17).

In this Note, the term "NGO" refers to foundations, associations, and institutes. Other not-for-profit legal forms, which are outside the focus of this Note, include political parties, trade unions, and other organizations registered under separate laws or regulations.

B. TAX LAWS

NGOs with public benefit status enjoy tax and other fiscal exemptions to the extent their income is used exclusively to further their public benefit purposes, including income derived from donations and grants (Law on Freedom of Association in NGOs Article 37, Law on Corporate Income Tax Article 10). ^[1] An NGO is taxed at the rate of 10 percent on income from commercial or other activities not exclusively related to its public purpose, reduced by deductions directly related to the expense of carrying out such activities allowed by law

(Law on Corporate Income Tax Article 34). NGOs without public benefit status are taxed on their profits in the same manner as other legal entities.

Both legal persons and individuals are allowed to deduct up to 10 percent of their taxable income for donations for specified public benefit purposes (Law on Corporate Income Tax Article 10(1); Law on Personal Income Tax Article 28(1)). The donation must be made to an NGO that has received and maintained public benefit status or to “any other non-commercial organizations that directly perform activities in the public interest and are not-for-profit,” including medical, educational, environmental, religious and other specified types of institutions (Law on Corporate Income Tax Article 10(2.2); Law on Personal Income Tax Article 28(2.2)). Taxpayers who make such donations in particular subject areas may receive an additional allowance of up to 10 percent of their income for deduction purposes, as prescribed by separate laws (Law on Corporate Income Tax Article 10(5); Law on Personal Income Tax Article 28(5)). Deductions are not allowed if the contribution will directly benefit a person related to the donor (Law on Corporate Income Tax Article 10(3); Law on Personal Income Tax Article 28(3)).

A value added tax (VAT) is in effect in Kosovo. Exemptions are provided for the sale or import of medicines, medical services, pharmaceutical products, and medical and surgical instruments and apparatus, as well as the provision of public education services (Law on Value Added Tax Article 27).

II. APPLICABLE LAWS

- Constitution of the Republic of Kosovo [\[2\]](#)
- Law No. 06/L-043 on [Freedom of Association in Non-Governmental Organizations](#) (entered into force April 15, 2019)
- Law No. 05/L-029 on Corporate Income Tax
- Law No. 05/L-037 on Value Added Tax
- Law No. 05/L-028 on Personal Income Tax
- Law No. 04/L-102 on Amending and Supplementing the Law on Tax Administration and Procedures 03/L-222
- [Law No. 2004/3 The Anti-Discrimination Law](#)
- Law No. 03/L-040 [on Local Self Government](#)
- [Law No. 03/L-047 on the Protection and Promotion of the Rights of Communities and Their Members in Kosovo](#)
- [Law No. 03/L-034 on Citizenship of Kosovo](#)
- Law No. 06/L-081 on Access to Public Documents

- Law No. 04/L-093 on Banks, Microfinance Institutions and Non-Bank Financial Institutions
- Law No. 05/L-096 on the Prevention of Money Laundering and Combatting Terrorist Financing
- Administrative Instruction GRK No. 02/2014 on Registration and Functioning of Non-Governmental Organizations
- [Law No. 05/L-021 on the Protection from Discrimination](#)

III. RELEVANT LEGAL FORMS

A. GENERAL LEGAL FORMS

Kosovo recognizes three legal forms for domestic, not-for-profit, non-governmental organizations: associations, foundations, and institutes. All three forms may be established for any lawful public or mutual benefit purpose (Law on Freedom of Association in NGOs Article 22).

NGOs may apply to register online via the [Ministry of Public Administration website](#). By law, the authorities must respond to a registration application within 30 days after receiving it (Law on Freedom of Association in NGOs Article 25(2)). Authorities may deny registration applications of NGOs that promote inequality of any type (Law on Freedom of Association in NGOs Articles 26).

An association is a membership organization established by at least three domestic or foreign legal or natural persons (Law on Freedom of Association in NGOs Article 16). If any of the founders are legal persons, they must provide evidence of their registration as legal entities, as well as the decision appointing the legal person's representative for the establishment of the NGO (Law on Freedom of Association in NGOs Article 15(2))

A foundation is an organization without members that is established to manage property and assets. A foundation may be created by one or more legal or natural persons, and must have an initial capital of at least 1,000 Euros by will or inheritance (Law on Freedom of Association in NGOs Article 17 (3)).

An institute is a non-membership organization established by one or more persons in mutual interest or for the public benefit (Law on Freedom of Association in NGOs Article 18).

Foreign NGOs may conduct activities in the territory of Kosovo, provided that they register with the Government of Kosovo and substantially meet specified requirements (Law on Freedom of Association in NGOs Article 24).

B. PUBLIC BENEFIT STATUS

An NGO may apply to the Government of Kosovo for “public beneficiary status,” which, if granted, entitles the organization to certain tax benefits and makes it subject to certain reporting requirements (Law on Freedom of Association in NGOs Article 37). An NGO organized and operated to undertake one or more of the following as its principal activity may apply for public beneficiary status:

- humanitarian aid and support
- support for persons with disabilities
- charitable activities
- education
- health
- economic development
- culture
- environmental protection and promotion
- protection and promotion of human rights
- support for democratic practices and civil society
- promotion of voluntary work
- consumer protection
- refugee assistance and support
- protection of or care for injured and vulnerable animals
- social welfare
- protection against discrimination
- protection of cultural heritage
- any other activity that serves the public interest (Law on Freedom of Association in NGOs Article 37(1)).

NGO activities in the education and health sectors are only considered public beneficiary activities if significant benefits are provided free of charge or at less than fair market value to disadvantaged individuals or groups (Law on Freedom of Association in NGOs Article 37(2)).

An NGO with public beneficiary status must file annual financial and programmatic reports to retain that status (Law on Freedom of Association in NGOs Article 38(1); Administrative Instruction on Registration and Functioning of NGOs Article 11). The financial reports of all NGOs with annual income or expenditures in Kosovo in excess of EUR 100,000 must be submitted with “an opinion, signed by an independent auditor, as to whether the financial statements present fairly, in all material respects, the organization's financial position for the

reporting period” (Law on Freedom of Association in NGOs Article 38(8)); Public beneficiary status may be suspended if the NGO fails to file a complete annual report, or if the NGO no longer meets the requirements for public beneficiary status (Law on Freedom of Association in NGOs Article 39(1)-(3)). An NGO may also voluntarily withdraw from the public beneficiary status (Law on Freedom of Association in NGOs Article 40). If the status is suspended or revoked, the NGO must wait two years to reapply for the status (Law on Freedom of Association in NGOs Article 39(5)).

IV. SPECIFIC QUESTIONS REGARDING LOCAL LAW

A. INUREMENT

NGOs are prohibited from distributing any net earnings or profits to any person. An NGO’s assets, earnings, and profits may not be used to provide direct or indirect benefit to any founder, director, officer, member, employee, or donor of the NGO (Law on Freedom of Association in NGOs Article 12). NGOs are, however, allowed to pay “reasonable compensation” to such persons for work performed for the organization (Law on Freedom of Association in NGOs Article 12).

B. PROPRIETARY INTEREST

An NGO may own and manage property and assets for the accomplishment of its not-for-profit purposes (Law on Freedom of Association in NGOs Article 35(3)).

C. DISSOLUTION

An NGO may be dissolved in three ways:

- voluntarily, through a decision by its highest governing body;
- by a court decision determining that it is insolvent (Law on Freedom of Association in NGOs Article 41); or
- by a court decision determining that the NGO has violated the constitutional order, human rights and freedoms, or promoted racial, national, ethnic or religious hatred (Law on Freedom of Association in NGOs Article 44 (1)).

Upon dissolution, if an NGO receives tax or fiscal benefits, donations from the public, or government grants, any assets remaining after the discharge of liabilities shall be distributed to another NGO with the same or similar purposes, as identified in the organization’s governing documents or through a decision of the organization’s highest governing body. If the governing documents do not designate a recipient NGO, then a court shall determine

the NGO entitled to receive these assets (Law on Freedom of Association in NGOs Article 41(2)).

All other NGOs must distribute assets remaining after satisfying their liabilities “in accordance with the [NGO's] statutes or a decision by the highest governing body” and in accordance with the provision governing private inurement (Law on Freedom of Association in NGOs Article 41(4)). If a competent court issues a final decision ordering the dissolution of an NGO, the court will determine the distribution of remaining assets after the NGO has settled its obligations (Law on Freedom of Association in NGOs Article 41(6)).

D. PREVENTION OF MONEY LAUNDERING AND COMBATting TERRORIST FINANCING

Legal constraints designed to prevent money laundering and combat terrorist financing may affect an NGO's access to funding as well as its reporting obligations. The law prohibits NGOs from receiving or disbursing any contribution in cash that exceeds EUR 500 from a single source in a single day, or EUR 5,000 within a single year (Law No. 05/L-096 on the Prevention of Money Laundering and Combatting Terrorist Financing Article 29).

NGOs must report any suspicious act or transaction to the Financial Intelligence Unit (FIU) within three business days and prior to taking further action in connection with any such act or transaction. The NGO should not report this information to any person or entity other than the FIU, including even those involved in the relevant transaction, unless authorized in writing by the FIU, a prosecutor, or a court (Law No. 05/L-096 on the Prevention of Money Laundering and Combatting Terrorist Financing).

NGOs are also obliged to maintain financial data documenting all incomes and expenditures. This data shall identify the income by source or recipient, amount, manner of payment, and intended use of funds. Documents containing financial data must be maintained for five years and shall be available upon request of the FIU or other competent body (Law No. 05/L-096 on the Prevention of Money Laundering and Combatting Terrorist Financing Article 29).

E. ACTIVITIES

1. GENERAL ACTIVITIES

NGOs in Kosovo may generally engage in any lawful activities, including economic activities and certain political activities.

2. ECONOMIC ACTIVITIES

An NGO may engage in economic activities, provided that the earnings are used solely to promote the organization's not-for-profit purposes as specified in the NGO's statute (Law

on Freedom of Association in NGOs Article 35(2)). Although there are no explicit legal provisions on this matter, in practice the Government of Kosovo generally allows NGOs to engage in economic activities as long as they do not constitute the principal activities of the organization.

Certain special rules apply to NGO microfinance institutions. If the NGO microfinance institution was established for a charitable purpose, it should register at the Central Bank of Kosovo (CBK) as an NGO and register at the Ministry of Public Administration to obtain its tax-exempt status. An NGO microfinance institution is not permitted to sell or transfer its business, or merge, divest, or otherwise change its structure, mission, or ownership; nor is it allowed to distribute or in any manner pay out income, profits, surplus or other assets, liabilities or capital, except in compliance with the law and with the written approval of the CBK (Law on Banks and Microfinance Institutions Article 95(1.6)-(1.7)).

F. POLITICAL ACTIVITIES

NGOs may not engage in fundraising or campaigning to support political parties or candidates for political office ([Law on Freedom of Association](#) in NGOs Article 34). However, this prohibition does not appear to extend to involvement in lobbying or other kinds of political activities.

G. DISCRIMINATION

The Constitution of the Republic of Kosovo guarantees all persons in Kosovo the right to all fundamental freedoms without discrimination on any grounds, and incorporates the rights and protections set forth in numerous international conventions and declarations on human rights (Constitution Article 22). Moreover, the Constitution provides comprehensive rights for members of all ethnic communities as well as guarantees for the protection of the national, linguistic, and religious identity of all communities (Constitution Articles 57-62). The Constitution guarantees that no one shall be discriminated against on the grounds of race, color, gender, language, religion, political or other opinion, national or social origin, relation to any community, property, economic and social condition, sexual orientation, birth, disability, or other personal status (Constitution Article 24). The Constitution confirms that the Republic of Kosovo exercises its authority based on the respect for human rights and freedoms of its citizens and all other individuals within its borders.

The principles set forth in the Constitution are further implemented under the Anti-Discrimination Law, as well as by Article 5 of the Law on Freedom of Association in NGOs, and the Law on the Protection from Discrimination.

H. CONTROL OF ORGANIZATION

There are no restrictions on the participation of or management by foreign individuals or entities of NGOs. Foreign persons may found, be members of, and manage an NGO in Kosovo (Law on Freedom of Association in NGOs Article 24). Therefore, it is possible that an NGO in Kosovo may be controlled by a for-profit entity or an American grantor charity.

V. TAX LAWS

A. TAX EXEMPTIONS

Registered NGOs with public benefit status are exempt from the corporate income tax to the extent that the income is used exclusively to further the organization's public benefit purposes ([Law on Corporate Income Tax](#) Article 7(1.1)). This includes income derived from foreign grants and donations. An exemption also applies to income generated from contracts with a non-local contractor for the supply of goods or services to the United Nations or any of its specialized agencies; foreign governments, their organs and agencies; the European Union and the Specialized Agencies of the European Union; the World Bank; the IMF; and international inter-governmental organizations for the supply of goods or services in support of programs and projects for Kosovo (Law on Corporate Income Tax Article 7(1.6-1.7)). Other legal entities pay profit tax at the rate of 10 percent on taxable profit. ^[3] NGOs without public benefit status are taxed on their profits in the same manner as other legal entities.

B. DEDUCTIBILITY OF CHARITABLE CONTRIBUTIONS

Donations by legal entities and individuals made for humanitarian, health, educational, religious, scientific, cultural, environmental protection, and sports purposes may be deducted from income up to a maximum of 10 percent of taxable income (Law on Corporate Income Tax Article 10(1); Law on Personal Income Tax Article 28). The donation must be made to an NGO that has received and maintained public benefit status or to "any other non-commercial organizations that directly perform activities in the public interest and are not-for-profit," including medical, educational, and other specified types of institutions (Law on Corporate Income Tax Article 10(2.2); Law on Personal Income Tax Article 28(2.2)). Taxpayers who make such donations in particular subject areas may receive an additional allowance of up to 10 percent of their income for deduction purposes, if so prescribed by separate Kosovo laws (Law on Corporate Income Tax Article 10(5); Law on Personal Income Tax Article 28(5)).

Deductions are not allowed if the contribution will directly benefit a person related to the donor (Law on Corporate Income Tax Article 10(3); Law on Personal Income Tax Article 28(3)).

C. VALUE ADDED AND TURNOVER TAXES

The standard VAT rate is 18 percent (Law on Value Added Tax Article 26(1)). A reduced VAT rate of 8 percent applies to certain goods and services listed in Article 2 of the VAT Law, which mainly include food items, books, and medical products. The list of products may be expanded or reduced by the relevant Minister. Further, under Article 27, certain goods and services associated with the public interest are exempt from VAT altogether, including: hospital supplies and services; medical and dental supplies and services; goods closely linked to welfare and social security work; and supplies and services related to education, sports, cultural events, and the media (Law on Value Added Tax Article 27). Likewise exempted are subscription services and goods provided to their members by nonprofit organizations with political, trade-union, religious, patriotic, philosophical, philanthropic, or civic purposes, as long as this exemption is not likely to cause distortion of competition (Law on Value Added Tax Article 27(1.11)) Many activities carried out by institutions of religious communities including those related to welfare and charity, religious training, and religious education are also exempt (Law on Value Added Tax Article 27(1.17)).

D. TAX DECLARATION

Kosovo law requires that NGOs register with the Tax Administration, obtain a fiscal number when engaging in economic activities (Law on Tax Administration and Procedures Article 11) and submit to the Tax Administration or its agent a completed tax declaration as required by the Law on Tax Administration and Procedures (Law on Tax Administration and Procedures Article 17).

E. DOUBLE TAX TREATIES

Kosovo and the United States have not entered into any tax treaties.

VI. KNOWLEDGEABLE CONTACTS

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FOOTNOTES

[1] The Law on Freedom of Association in NGOs uses the term "public beneficiary status," while the Income Tax Law and the Corporate Tax Law reference "public benefit status." This Note preserves the language used in the respective laws.

[2] In April 2009, the Constitution of Kosovo entered into force. Article 44 of the Constitution guarantees the freedom of association and the right of everyone to establish an organization without obtaining any permission, to be or not to be a member of any organization, and to participate in the activities of an organization.

In addition, the Constitution provides that the human rights and fundamental freedoms guaranteed by the Constitution shall be interpreted consistent with the court decisions of the European Court of Human Rights (Constitution Article 53).

[3] The 10 percent profit tax rate does not apply to insurance and re-insurance companies licensed by Central Bank, which pay 5 percent of gross premiums accumulated over the taxation period.