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Survey of Tax Laws Affecting NGOs in the Newly Independent States

International Center for Not-for-Profit Law

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FROM THE AMERICAN PEOPLE



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Every effort has been made to ensure that the information in this paper is current. Nonetheless, the paper may not reflect changes in the laws that have occurred since the receipt of the survey responses. If errors are found, ICNL gladly welcomes notification.

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Survey of Tax Laws Affecting NGOs in the Newly Independent States

Introduction

This report surveys current tax laws governing not-for-profit, non-governmental organizations (NGOs) in 12 Newly Independent States of the former Soviet Union (NIS). Specifically, this report covers Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The report is based on responses to a survey questionnaire regarding tax laws and regulations pertaining to NGOs provided by experienced attorneys in each of the subject countries.

Section I compiles survey responses for each country, providing information on income/profit tax exemptions for NGOs; the tax treatment of income from NGO economic activities; the applicability of other taxes, such as the Value Added Tax (VAT) and taxes on property; and incentives for individual and corporate philanthropy. Section II of this report contains charts reflecting this information.

The purpose of this publication is not to provide legal advice or to present a comprehensive analysis of taxation in the NIS; rather, it is to provide the reader with a comparative perspective on the situation concerning the taxation of NGOs in this region.

ARMENIA

A. Income (Profits) Tax

1. Basic Notions

Taxation on income or profits is regulated in the Republic of Armenia by the Law on Profits Tax (“Profits Tax Law”).¹ Under this law, all residents of the Republic of Armenia, with the exception of state-run, budget-financed organizations, and all non-residents are taxpayers for purposes of profits tax.² Organizations established and registered as legal persons in the Republic of Armenia, except separate structural units of non-residents, are considered residents, and thus taxpayers.³

Residents are taxed on taxable profits received within and outside the territory of the Republic of Armenia.⁴ Taxable profit is the positive difference between the gross income of the taxpayer and deductions defined by the Profits Tax Law,⁵ with “gross income” defined as the total amount of income received by the taxpayer in the reporting year, regardless of the source.⁶

2. Profits Tax Rates

The profits tax rate for residents is 20 percent.⁷

3. Wholly or Partially Exempt Organizations

Noncommercial organizations (NCOs) enjoy exemptions for revenues obtained as gratuitous donations, as discussed below.⁸

The legislation of the Republic of Armenia⁹ provides for two main legal forms for NCOs: public organizations and foundations. The Law on Public Organizations¹⁰ addresses sub-categories of public associations and public organizations, which may not pursue political, religious, or professional objectives. Finally, the Law of the Republic of Armenia on Charity (“Charity

¹ The Law of the Republic of Armenia on Profits Tax was adopted as of September 30, 1997 (with subsequent amendments as of July 9, 2008).

² Article 4 of the Profits Tax Law. This survey does not address taxation of non-residents.

³ Id.

⁴ Article 5 (1) of the Profits Tax Law.

⁵ Article 6 of the Profits Tax Law.

⁶ Article 36 of the Profits Tax Law. Among deductions available under the Profits Tax Law is the deduction of an amount equal to 150 percent of salaries and similar payments made to handicapped employees.

⁷ Special rates are available for taxpayers who elect to be taxed under the simplified taxation regime; non-commercial organizations are ineligible for this simplified taxation regime.

⁸ Article 8 of the Profits Tax Law.

⁹ The Law of the Republic of Armenia on Public Organizations was adopted as of December 4, 2001 (“Law on Public Organizations”); and the Law of the Republic of Armenia on Foundations was adopted as of December 24, 2002 (“Law on Foundations”).

¹⁰ The Law on Public Organizations.

Law”)¹¹ created the category of “charitable organizations,” defined as “non-commercial organizations that carry out charitable activities.”

4. Taxation of Revenues Obtained on a Gratuitous Basis

Under Article 8 of the Profits Tax Law, “assets” (including membership fees) and services received by NCOs on a gratuitous basis are not considered “income” for taxation purposes.

5. Taxation of Income from Entrepreneurial Activities

Public organizations “may engage in entrepreneurial activities only through creating a commercial organization or through participating in one.”¹²

Charitable foundations are permitted under the Law on Foundations to carry out entrepreneurial activities without establishing a separate commercial entity only if such activities (i) further the statutory purposes of the organization, (ii) correspond to those purposes, and (iii) are envisaged in the charter.¹³

Profits from entrepreneurial activities are fully taxed.

“Entrepreneurial activity” is not defined by the Profits Tax Law, but is defined in the Law of the Republic of Armenia on the Value Added Tax¹⁴ (“VAT Law”) as: “economic activities implemented regularly for the purpose of deriving profit. Economic activity is any activity performed for compensation.”¹⁵ The Civil Code also defines entrepreneurial activity, but its definition lacks the criterion of regularity, providing that the activity is considered entrepreneurial when the person engaging in it “aims at gaining profit by using his/her property, selling goods, [or] performing works or services, at his/her own risk.”¹⁶

Direct engagement of public organizations in entrepreneurial activities is prohibited by law and may lead to action by registering authorities. Nevertheless, such engagement does not appear to jeopardize tax benefits applicable to income obtained on a gratuitous basis. This also appears to be the case for foundations that carry out entrepreneurial activities unrelated to their statutory purposes.

6. Taxation of Passive (Investment) Income

Resident organizations, regardless of their nature as commercial or non-commercial, are exempt from taxation on the following types of income:

- dividends;¹⁷

¹¹ The Law of the Republic of Armenia on Charity was adopted as of October 8, 2002.

¹² Article 4 (3) of the Law on Public Organizations.

¹³ Article 19 of the Law on Foundations

¹⁴ The Law of the Republic of Armenia on Value Added Tax was adopted as of May 14, 1997.

¹⁵ Article 2 of the VAT Law.

¹⁶ Article 2 of the Civil Code of Republic of Armenia.

¹⁷ Article 26 of the Profits Tax Law.

- income from privatization certificates;¹⁸
- residual property received from liquidation of a legal entity;¹⁹ and
- income from investment in foreign currencies and securities.²⁰

7. Regulation of Expenditures

Civil legislation imposes no requirements or limitations on the expenditures of NCOs.

The Charity Law states that charitable organizations must use no less than 80 percent of monetary donations and contributions designated to a specific purpose within one year of receipt, unless the donor or the charitable program stipulates otherwise.²¹ In-kind donations and contributions designated to a specific purpose must be fully allocated for their charitable purposes no later than a year after receipt, unless the donor or the charitable program stipulates otherwise.²² Further, no less than 80 percent of income earned during the fiscal year may be used for financing charitable programs.²³

8. Charitable Deductions

Under the Profits Tax Law, monetary and in-kind contributions and services rendered to NCOs, libraries, museums, public schools, asylums, residential homes, orphanages, and psycho-neurological and tuberculosis treatment infirmaries and hospitals, are deductible up to 0.25 percent of the donor's gross income.²⁴ Amounts in excess of this annual limit may not be carried over to the next fiscal period.

Under the Law of the Republic of Armenia on Personal Income Tax²⁵ ("Law on Income Tax"), monetary and in-kind contributions as well as services rendered to the following organizations may be deducted from an individual's taxable income for that year, up to a maximum of five percent of the taxable income:²⁶

- public and religious organizations, political parties of the Republic of Armenia;
- condominiums; and
- organizations which do not pursue a profit-making goal and operate exclusively for the following purposes:
 - religious;
 - charitable;
 - scientific;

¹⁸ Article 29 of the Profits Tax Law.

¹⁹ Article 28 of the Profits Tax Law.

²⁰ Article 8 of the Profits Tax Law.

²¹ Article 12 of the Charity Law.

²² Article 12(3) of the Law on Charity.

²³ Article 13 (5) of the Law on Charity. The Law does not specify the period of time in which such earned income must be spent.

²⁴ Article 23 of the Profits Tax Law.

²⁵ The Law of the Republic of Armenia on Personal Income Tax Law was adopted as of December 27, 1997.

²⁶ Article 13 of the Law on Income Tax.

- conduct of tests for purposes of public security;
- protection of the environment;
- development and promotion of literature, culture and education;
- protection of consumers' rights;
- promotion and organization of amateur sports;
- protection of human rights, rights of women, children, and the elderly;
- libraries, museums, public schools, boarding schools, nursing homes, and orphanages; and
- psychiatric and tuberculosis treatment infirmaries and hospitals.

B. VAT

1. Basic Notions

Legal entities engaging in “taxable transactions or operations” are taxpayers for the purpose of VAT. Under Article 6 of the VAT Law, “taxable transactions or operations” include the following:

1. “delivery (supply) of goods – a transaction that is implemented by transferring the ownership right of goods (including output and real estate) to another person for compensation;”²⁷
2. “rendering of services – a transaction or operation other than delivery of goods, implemented for any form of compensation, including the sale (transfer) of intangible assets;”²⁸
3. “delivery of goods or provision of services by VAT payers for free, partially free, or at significantly lower than market prices, with some exceptions;”²⁹ and
4. “import of goods under the “Importing for Free Circulation” customs regime, with certain exceptions as designated by law.”³⁰

Under Article 6, goods and services are subject to VAT, whether supplied as charitable or for compensation, unless supplied within a warranty period defined by state contracts.³¹

The tax base is the total value of all taxable transactions performed by the taxpayer within the territory of Armenia. In the case of goods and services provided gratuitously or below market

²⁷ Article 6 (1) of the VAT Law.

²⁸ Article 6 (2) of the VAT Law. Under this clause, the lease of goods and real estate is also considered the provision of services.

²⁹ Article 6 (3) of the VAT Law.

³⁰ Article 6 (4) of the VAT Law. This clause further clarifies that for goods imported into the territory of Armenia, VAT is calculated and collected on the border by customs officials. There is an exception to the VAT for certain imported goods included on a list defined by law; for those items, the customs duty is defined as 0 percent and excise taxes are applied.

³¹ Article 6 of the VAT Law.

value, the basis for taxation is the market value as found in similar transactions in the commercial sphere under comparable circumstances.³²

Persons importing goods into the territory of the Republic of Armenia must pay import VAT.

2. VAT Rates

The standard rate of 20 percent applies to most transactions. A zero rating applies to certain international transactions only. No reduced rates are available under Armenian legislation.

3. Registration

A legal entity may voluntarily join the VAT system, even if it is not defined as a taxable person (i.e. simplified tax payers or presumptive payment payers), through submission of an application.³³

4. Exemption for Turnover and Import for Specific Categories of Organizations

Armenia provides few VAT exemptions for specific kinds of persons or organizations, other than those privileges granted by international treaties or agreements.³⁴

However, NCOs may enjoy VAT privileges with regard to imported goods, whether directly acquired abroad or acquired in Armenia. To benefit from such exemptions, the NCO must use the goods within the framework of “humanitarian assistance and charity programs” according to procedure specified in certain government regulations³⁵ and budget legislation. Under these programs, VAT becomes reimbursable only when the government elects to “co-finance” a humanitarian or a charitable program. To receive the reimbursement, an organization must obtain humanitarian or charitable status by applying to the Central Commission on Humanitarian Assistance (which provides reductions on customs duties and other fees). Upon approval of a humanitarian or charitable program by the Central Commission and procurement of government “co-financing,” the initiator of the program must obtain a “voucher” for each transaction (for both import operations or domestic acquisition) from the Ministry of Finance, which is subsequently tendered to the customs authorities or to the domestic supplier in lieu of VAT payment.

Exemption for Specific Categories of Goods and Services

³² Article 8 (6) of the VAT Law.

³³ Article 3 of the VAT Law.

³⁴ For example, “Agreement between the Republic of Armenia Government and the US Government on Cooperation for simplifying control over humanitarian and technical aid,” signed as of December 15, 1992, exempts from VAT all organizations and citizens implementing programs financed by the US government.

³⁵ Resolution of the Government of the Republic of Armenia NO. 66 of January 16, 2003, On Charity Programs (Article 2), and the Regulation for the Compensation of the Amounts of the Value Added Tax subject to payment within the Framework of Humanitarian Assistance or Charity Programs, endorsed by the mentioned Resolution.

Certain transactions and operations are always exempt from VAT in Armenia, regardless of the commercial or non-commercial nature of the organization:³⁶

- educational fees payable to secondary, vocational schools, specialized secondary, and higher educational institutions;
- sales of copy books and music books, albums for drawing, children's and school literature, and schools' educational publications; and sales of scientific and educational editions published by higher educational institutions, specialized scientific organizations, and the National Academy of Sciences of the Republic of Armenia;
- scientific and research work;
- services related to the care of children in preschool institutions, care for persons in boarding schools, children's homes, institutions caring for disabled children and handicapped persons, nursing homes, as well as sales of goods produced and services rendered by the persons living at the expense of these institutions;
- sales of newspapers and magazines;
- services and sales related to funerals and burials;
- religious ceremonies, sales of religious items to and by religious organizations;
- sales of lottery tickets at face value; and
- sales of donor blood, breast milk, prosthetic and orthopedic items, medical assistance services (including prophylactic diagnostic measures), goods related to the treatment and prepared within the framework of medical assistance by patients in preventive-care enterprises and organizations, and services rendered by them.

5. VAT Rebate Procedure

Overpayment of VAT can be credited to other tax liabilities or reimbursed.³⁷

C. Property Tax, Real Estate, and Land Tax

1. Applicable Taxes

Property tax is levied on buildings and means of transportation on an annual basis.³⁸

2. Tax Benefits

There are no special exemptions regarding property tax for NCOs.

³⁶ Article 15 of the VAT Law.

³⁷ Article 25 of the VAT Law.

³⁸ Article 4 of the Law on Property Tax.

D. Miscellaneous

1. Other Exemptions and Benefits

In accordance with the Law on State Duties,³⁹ decreased fees apply to NCOs for:

- state registration and registration of amendments to charters; and
- legal actions involving protection of an entity's name.

³⁹ The Law of the Republic of Armenia on State Duties, as of December 27, 1997.

AZERBAIJAN

A. Income (Profits) Tax

1. Basic notions

Profits of “enterprises” are taxed under the Tax Code of the Republic of Azerbaijan (Tax Code).⁴⁰ The term “enterprise” is used to refer, *inter alia*, to legal entities established under the laws of Azerbaijan that conduct entrepreneurial activities and are established for such activities.⁴¹ While this may suggest that non-entrepreneurial organizations (i.e., non-commercial organizations (NCOs) created for non-commercial purposes) are not taxpayers, in practice, NCOs engaging in entrepreneurial activities are subject to profits tax.

“Profit” is defined as the difference between non-exempt income of a taxpayer and the deductions allowed by the Tax Code.⁴²

2. Profits tax rates

The tax rate is 22 percent⁴³. Certain types of passive income addressed further below are taxed at different rates.

If the turnover of taxable operations of a taxpayer engaged in entrepreneurial activity in any preceding three-month period does not exceed 22500 manat, the taxpayer is eligible for the simplified taxation system.⁴⁴

Tax rates for the simplified tax system are:⁴⁵

- In Baku city, four percent;
- In other cities and regions as well as in the Autonomous Republic of Nakhichevan, two percent;
- If manufacturing facilities, property and human resources of the taxpayer are located and operated in regions other than Baku city, two percent.
- If a taxpayer is registered in other regions but functions in Baku city, the four percent simplified tax will be applied.

3. Wholly or partially exempt organizations and income

⁴⁰ Article 103.1 of the Tax Code, was adopted July 11, 2000, and came into effect on January 1, 2001 (with subsequent amendments as of November 16, 2008).

⁴¹ Article 13.2.39 of the Tax Code. Enterprises also include non-resident legal entities established under foreign law, their branches or permanent establishments.

⁴² Article 104.1 of the Tax Code.

⁴³ Article 105.1 of the Tax Code.

⁴⁴ Article 218.1 of the Tax Code.

⁶ Article 220 of the Tax Code.

NCOs and charitable organizations, as defined in the Tax Code, enjoy some exemptions on certain kinds of income.

An NCO is defined in the Tax Code as a structure defined as such in the Civil Code of the Republic of Azerbaijan.⁴⁶

The Civil Code defines a non-commercial legal entity as “...a structure that does not envisage receipt of income as the purpose of its activity and does not distribute its profit among its participants.”⁴⁷

“Non-commercial activity” is defined in the Tax Code as:

“any activity not prohibited by law that is not aimed at the generation of income, and, in the event incomes are earned, they are used solely for non-commercial purposes, including for its statutory purposes. Otherwise the activity is deemed commercial.”⁴⁸

NCOs are exempt from profits tax on income derived from gratuitous transfers, membership fees, and donations.⁴⁹

A “charitable organization” is defined in the Tax Code as a “non-commercial organization conducting charitable activities.”⁵⁰

“Charitable activity,” in turn, is defined as:

“activity conducted by an individual and (or) charitable organization consisting of direct and disinterested aid, including the gratuitous transfer of money to individuals in need of such material or other aid to either organizations directly providing such aid, including charitable organizations, or science, educational, or other activity, carried out in the public interest, if otherwise not provided for by this Tax Code.”⁵¹

Charitable organizations are exempt from profits tax, except with respect to income received from entrepreneurial activities.⁵²

No other laws in Azerbaijan address charitable organizations in any further detail. No objective criteria or procedures exist in the Tax Code or elsewhere for identifying an organization as “charitable” on the basis of its intended and/or actual activities. Note that under the Tax Code’s definition, it is unclear whether an NCO must conduct only charitable activities to be treated as

⁴⁶ Article 13.2.42 of the Tax Code.

⁴⁷ Article 43.5 of the Civil Code.

⁴⁸ Article 13.2.27 of the Tax Code.

⁴⁹ Article 106.1.2 of the Tax Code.

⁵⁰ Article 13.2.36 of the Tax Code.

⁵¹ Article 13.2.35 of the Tax Code. Certain limitations apply. Aid is not considered “charitable” if any reciprocal obligations arise on the part of the recipient (except as regards the purpose-oriented utilization of such funds), if the provider and recipient are interdependent, or if the aid is provided for use in an electoral campaign.

⁵² Article 106.1.1 of the Tax Code.

charitable, or, on the other hand, whether any NCO conducting charitable activities (in addition to any other activities) should qualify.

The income of specialized educational facilities for the education of those with health impairments is also exempt, except income received from entrepreneurial activities.⁵³

Finally, a profit tax reduction of 50 percent applies to enterprises owned by public organizations in which no less than 50 percent of the employees are disabled persons. When establishing the reduction, the average number of employees may not include disabled people who work on contract terms at two jobs as contractors, or on the basis of other agreements pursuant to civil legislation.⁵⁴

4. Taxation of Revenues Obtained on a Gratuitous Basis

As noted above, three types of income received by NCOs are exempt from taxation under the Tax Code: charitable monetary transfers, membership fees, and donations. These types of income are not defined within the framework of the Tax Code. In addition, Azerbaijan's Civil Code does not define "donations."

A fourth type of income, grant income, is, in practice, exempted from profits taxation, although the Tax Code does not specifically exempt grants. Under the Law on Grants of April 17, 1998, a "grant" is described as purpose-oriented, gratuitous, non-repayable assistance provided under the procedure in the Law on Grants for preparation and implementation of projects beneficial to state and society.⁵⁵ To qualify as a recipient of a grant, a domestic legal entity must have as its primary statutory purpose either of the following: (1) charitable activity; or (2) the implementation of projects and programs eligible for a grant that do not pursue the direct derivation of profit from the grant.⁵⁶

A prior version of the Law on Grants exempted grants from profits taxation,⁵⁷ but the current law notes "issues of taxation connected with the obtaining ... of a grant, or of other monetary or material assistance are regulated by the Tax Code of the Republic of Azerbaijan."⁵⁸ Since the Tax Code does not specifically exempt grants (and prohibits inclusion of issues concerned with taxation and tax control into other legislative acts),⁵⁹ we may conclude that the practice of exempting grants is based on an understanding that "donations," as used in the Tax Code, includes grants.

⁵³ Article 106.1.7 of the Tax Code.

⁵⁴ Article 106.2 of the Tax Code.

⁵⁵ E.g., humanitarian, social, and ecological projects; restoration projects aimed at repairing industrial and social facilities and infrastructure damaged as a result of war or natural disaster; programs in support of education, healthcare, culture, legal advising, information, publishing, sports, scientific, research and design and other programs of great importance for the state and society. Article 1.1 of the Law on Grants.

⁵⁶ Article 3 of the Law on Grants.

⁵⁷ The Law on Grants used to provide in its Article 5.1 that monetary and other material assistance obtained in accordance with the stipulated procedure may be exempted from all types of taxes, duties and obligatory payments to the state budget.

⁵⁸ Article 5.1 of the Law on Grants.

⁵⁹ Article 2.4 of the Tax Code.

All incomes received by charitable organizations, except for income from entrepreneurial activities, is exempt. A charitable organization should thus enjoy exemptions for gratuitously obtained incomes (membership fees, donations, charitable money transfers) both by virtue of the overall exemption and as an NCO.

5. Taxation of Income from Entrepreneurial Activities (Business)

Entrepreneurial activity is defined by the Tax Code as activity independently conducted by the taxpayer for the primary purpose of derivation of profits from the use of property, provision of goods, performance of works, or provision of services.⁶⁰

Under the Tax Code, income from entrepreneurial activities by NCOs, including charitable organizations, is taxed. No distinction is made between income arising from activities related to and those unrelated to the statutory purposes of the NCO. Nor does the Tax Code condition any exemptions for other types of income (donations, fees, etc.) on non-conduct of entrepreneurial activities or unrelated activities.

Under the status legislation, however, NCOs are permitted to engage in entrepreneurial activities only if indicated in their charters as related to their statutory purpose.⁶¹ NCOs are required to conduct separate accounting for revenues and costs of entrepreneurial activity.⁶²

6. Availability of Exemptions for Passive (Investment) Income

The Tax Code does not contain any explicit exemptions for passive income of NCOs. However, the broad exemption for charitable organizations, which applies to all income except that from entrepreneurial activity, may operate to exempt them from profits tax on passive income. This conclusion is based on the facts that: (a) the definition of “entrepreneurial activity” under the Tax Code⁶³ does not seem to include passive income; and (b) according to Article 99.3, which refers to income of individuals, “income from non-entrepreneurial activities” includes, *inter alia*, interest payments, dividends, income from renting out property, royalties, and gains from the sales of assets not used for entrepreneurial activities.⁶⁴ As a result, passive income received by charitable organizations should be tax exempt.

Regardless of whether or not passive income is exempt for the recipient of such income, dividends⁶⁵ and interest⁶⁶ are subject to a ten-percent tax withheld at the source. Dividends of a resident legal entity taxed at the source are not subject to any further taxation when received by the legal entities and individuals.

⁶⁰ Article 13.2.37 of the Tax Code.

⁶¹ Article 22 of the Law on Non-Governmental Organizations of June 13, 2000 (NGO Law).

⁶² Article 22.3 of the NGO Law.

⁶³ See A 5.

⁶⁴ Article 99.3 of the Tax Code.

⁶⁵ Article 122 of the Tax Code.

⁶⁶ Article 123 of the Tax Code.

When a resident legal entity receives an interest payment that has been taxed at the source at the rate of ten percent, the amount of interest is included in taxable income. In this case, the amount of tax withheld at the source can be deducted from the aggregate income tax obligation of the legal entity for the reporting period, provided the tax withholding is supported by appropriate documents.⁶⁷

7. Regulation of Expenditures

Neither framework legislation nor tax legislation contain any requirements regarding expenditure of funds or limitations on administrative expenses.

8. Deduction of Charitable Contributions

Neither legal entities nor individuals are entitled to any deductions for their contributions to charitable organizations or NCOs.

B. VAT

1. Basic Notions

Value Added Tax (VAT) is regulated by Chapter XI of the Tax Code and by the “Methodological Instructions on Registration of Taxpayers for the Purposes of VAT, Calculation and Payments of VAT”⁶⁸ (hereinafter, the “VAT Instruction”), explaining the VAT provisions of the Tax Code.

Since 2006, “Taxpayers,” for the purpose of VAT, are persons importing goods into Azerbaijan⁶⁹ and persons conducting entrepreneurial activity, if the volume of their taxable operations in any preceding three-month period exceeds 22500 manat.⁷⁰

The following are subject to VAT:

- taxable operations: supply of goods, fulfillment of works, provision of services; and
- taxable imports.⁷¹

Transactions conducted on a gratuitous basis or as barter are deemed taxable operations at market value (not including VAT).⁷² However, gratuitous contributions of monetary assets, including membership fees, donations, and grants, are not subject to VAT.⁷³ If a taxpayer acquires goods (works, services) subject to VAT and is entitled to VAT credit, the subsequent

⁶⁷ This applies only to interest, not dividends. In the latter case, the 10 percent withholding is final.

⁶⁸ Adopted on December 26, 2000.

⁶⁹ Article 154.3 of the Tax Code.

⁷⁰ Article 155.1 of the Tax Code.

⁷¹ Article 159 of the Tax Code.

⁷² Articles 159.4 and 161.2 of the Tax Code; Section IV (4) “Object of Taxation” of the VAT Instruction.

⁷³ Although there is no provision on this issue in the Tax Code itself, it follows from Section IV (9) “Object of Taxation” of the VAT Instruction.

use of such goods (works, services) for non-commercial purposes is deemed a “taxable operation.”⁷⁴

“Taxable turnover” is the aggregate value of taxable operations during the reporting period. The reporting period for the purposes of VAT is one month.⁷⁵

2. VAT Rates

The Tax Code of Azerbaijan establishes a uniform VAT rate of 18 percent.⁷⁶

A zero rating is applicable to transactions listed in Article 165 of the Tax Code, which includes, *inter alia*:⁷⁷

“importation of goods, provision of goods, performances of works, and provision of services [funded by] gratuitous financial assistance (grants) received from abroad.”⁷⁸

Zero rating is applicable only to foreign grants.⁷⁹ Therefore, zero rating applies to the purchase of goods (works, services) by recipients of foreign grants if the purchase is paid for out-of-grant funds. It should be noted that the zero rate is in fact available to the *supplier* of such goods and not to the grantee itself (if registered as a taxable person), if the latter provides goods out of the grant funds.⁸⁰

In order to ensure the proper administration of zero-rated transactions, the VAT Instruction envisages a burdensome procedure, according to which a number of documents have to be submitted first by the grant recipient to the supplier, and then by both to the tax authorities.⁸¹ A grant recipient must submit to the local tax authorities a report on goods (works, services) purchased with the proceeds of the foreign grant.

It is not unreasonable to suggest that in view of the burdensome procedure applicable to the sale of goods at a zero rate, suppliers may be reluctant to sell goods at the zero rate. In this case, the grant recipient may purchase goods with VAT included in the price and claim reimbursement later from the tax authorities.

⁷⁴ Article 159.5 of the Tax Code, Section IV (5) “Object of Taxation” of the VAT Instruction.

⁷⁵ Article 178 of the Tax Code.

⁷⁶ Article 173.1 of the Tax Code. No reduced rates are available.

⁷⁷ The zero-percent rate also applies to: goods and services intended for embassies and diplomats, exports, international transportation, etc.

⁷⁸ Article 165.1.2 of the Tax Code.

⁷⁹ Section XV (2) of the VAT Instruction.

⁸⁰ *Id.*

⁸¹ A grant recipient must submit to the supplier (a) a copy of the agreement confirming receipt of the foreign grant; and (b) a written request by the grant recipient on the application of zero rate to the purchase of goods (works, services). The supplier, in order to claim credit on VAT, must submit to the tax authorities the two documents specified in (a) and (b) above and copies of documents certifying receipt of goods (works, services) by the purchaser.

3. Registration

Persons conducting entrepreneurial activity are obliged to apply for registration as VAT-payers if the volume of their taxable operations in the preceding three-month period exceeds 22500 manat.⁸² The application must be submitted within ten days of the expiration of such period. Entities with income below this threshold may voluntarily register as VAT payers.⁸³

4. Exemption for Turnover and Import for Specific Categories of Organizations

There are no exemptions from VAT linked to the non-commercial identity of an organization.

5. Exemption for Specific Categories of Goods and Services

Article 164 of the Tax Code establishes a list of supplies and imports that are exempt from VAT, regardless of whether they are performed by commercial or non-commercial entities. Those exemptions are linked to the nature of services, which, *inter alia*, include the following:

- turnover related to the sales and purchase of mass media products, editorial, publishing, and printing activities connected with production of printed mass media products (except for advertisement services);⁸⁴
- editorial, publishing, and printing activities connected with production of schoolbooks for middle schools, children's literature, and publications of national importance subsidized by the State budget;⁸⁵
- ritual services provided by funeral homes and cemeteries.⁸⁶

6. VAT Rebate Procedure

The main rule applicable to reimbursement by the government for the excess of the input VAT over the output VAT (hereinafter, the "excess") is as follows:⁸⁷

If at least 50 percent of the taxable turnover of the taxpayer during the reporting period is zero-rated, the excess is to be reimbursed within 45 days of submission of the application for reimbursement. According to the VAT Instruction, the amount of VAT reimbursement due to the taxpayer is first applied by tax authorities towards payment of any other taxes, interest, and financial sanctions due from the taxpayer; any remaining amount must be reimbursed within 45 days. For other taxpayers (i.e., who have less than 50 percent of zero-rated taxable turnover), the excess VAT is applied towards future VAT obligations over the period of the subsequent three months, after which any remaining excess shall be reimbursed within 45 days of submission of the taxpayer's application.

⁸² Article 155.1 of the Tax Code.

⁸³ Article 156 of the Tax Code.

⁸⁴ Article 164.1.7 of the Tax Code.

⁸⁵ Article 164.1.8 of the Tax Code.

⁸⁶ Article 164.1.9 of the Tax Code.

⁸⁷ Article 179 of the Tax Code.

A special procedure has been established for persons acquiring or importing⁸⁸ goods (works, services) funded by “gratuitous monetary transfers” from an international organization or foreign legal entity or individuals pursuant to an international agreement to which Azerbaijan is a party. The recipients must claim from the tax authorities any VAT they paid within the calendar month following the month in which the taxable operation or taxable import occurred. Reimbursement is due within 45 days of receipt of the application.

This procedure is also available to purchases made using grants (subject to zero rate) if the VAT is included in the price, as described in Section B2 above.

C. Property, Real Estate, and Land Tax

There is a property tax and a land tax in the Republic of Azerbaijan. For the purposes of property tax, taxpayers are enterprises and individuals that own taxable objects.⁸⁹ The tax base for assessing property tax is, in the case of physical persons, the value of buildings and motor vehicles owned by them; and in case of enterprises, the annual average balance sheet value of fixed assets and the balance sheet value of motor vehicles. Property tax on fixed assets of enterprises is one percent.

For the purposes of land tax, taxpayers are enterprises and individuals who own or use land plots on the territory of the Republic of Azerbaijan. Land tax is paid on an annual basis at various rates based on the size of the land plot owned or used by the taxpayer, its location, and purpose.

1. Tax Benefits

Entities exempt from property tax include, *inter alia*, public organizations of the handicapped⁹⁰ and State budget-financed institutions. Property tax is not levied on buildings used as artists’ workshops. The tax base for assessing the amount of property tax is reduced by the value of buildings (objects) used by institutions of education, health care, culture, and sports, if used according to their primary purpose.

No benefits with respect to land tax are applicable to NCOs.

D. Other taxes

Excise tax, road tax, and certain other taxes apply irrespective of an organization’s status as commercial or non-commercial.

⁸⁸ Apparently, *import* is also covered, though it is only once mentioned in the VAT Instruction (not the Tax Code itself).

⁸⁹ In practice, this tax is imposed upon NCOs regardless of their engagement in entrepreneurial activities.

⁹⁰ Article 199.1 of the Tax Code.

BELARUS

A. Income (Profits) Tax

1. Basic Notions

The Tax Code of the Republic of Belarus⁹¹ (“Tax Code”) defines “taxpayers” as organizations and physical persons who, in accordance with the Tax Code, are mandated to pay taxes or duties (government fees).⁹² Currently, profits tax and other taxes are regulated by respective laws and regulations.

For the purpose of levying taxes, an “organization” is defined as:

- 1) A legal entity of the Republic of Belarus;
- 2) Foreign and international organizations, including those without legal personality;
- 3) Parties to regular partnerships (parties to an agreement of joint activity);
- 4) Groups engaged in economic activities.

Subsidiaries, representative offices and other subdivisions of legal entities of the Republic of Belarus that account separately from parent organizations and possess a checking account or any other bank account are subject to taxation and payment of duties (fees) as legal entities, unless the President of the Republic of Belarus or the laws of the Republic of Belarus stipulate otherwise.

Non-commercial organizations are deemed taxpayers in accordance with the type of their activities, their engagement in entrepreneurial activities, and the availability of assets and payment of salaries.

Taxable profits are determined on the basis of the total of gross revenues, including goods and services sold, other assets (including fixed assets), property rights, and revenues from other non-sale operations, less the total sum of incurred expenses.⁹³ For non-commercial organizations set up pursuant to relevant legislation, net profits will be taxed in accordance with the aforementioned formula, unless otherwise permitted by the legislation. Some examples of exceptions are discussed below.⁹⁴

2. Income tax rates

An organization’s profit is taxed at the rate of 24 percent.⁹⁵

⁹¹ Tax Code of the Republic of Belarus as of December 19, 2002 (with consecutive amendments as of January 1, 2009).

⁹² Article 13, General Part of the Tax Code.

⁹³ Article 2(1) of the Law of Belarus No. 1330-XII of December 22, 1991 “On taxation of revenues and profits” (with amendments as of November 13, 2008) (hereinafter Law on taxation of revenues and profits).

⁹⁴ Article 2(3) of the Law on taxation of revenues and profits.

⁹⁵ Article 4(8) of the Law on taxation of revenues and profits.

3. Wholly or partially exempt organizations and incomes

Public and religious organizations (associations), republican state-public associations and other non-commercial organizations founded in accordance with relevant legislation may deduct the following revenues from the general taxable amounts:⁹⁶

- entrance and membership fees and payments for shares (in the amount prescribed by their by-laws);
- revenue paid by participants (members) for the cost of services provided; the cost of goods included in the overall cost of said works (services) which are incurred in connection with maintaining and operating immovable property;
- the value (cost) of goods and services, monetary assets, other valuables and property rights obtained gratuitously and used in accordance with the statutory goals or other purposes specified by the organization's articles of association of public and religious organizations (associations) or other non-commercial organizations, in the event the earmarked purpose is not specified by the giving party;⁹⁷
- interest income earned from keeping the aforementioned monetary assets on bank accounts.

Profits from manufacturing prosthetic and orthopedic devices and means of rehabilitation and care for the handicapped are exempt from taxable profit.

Organizations in which more than 50 percent of employees are handicapped employees are tax-exempt.

Foreign grants and international technical assistance may be exempt from income and other taxes. For more information on these two categories of income, see Section A4, below.⁹⁸

It should be mentioned that certain public associations are exempt from profit and Value Added taxes on the basis of a specific legislation, so that they may develop their creative activities and financial position. These include the Belorussian Confederation of Creative Unions and other listed creative unions.⁹⁹

⁹⁶ Article 2(2) of the Law on taxation of revenues and profits.

⁹⁷ It should be mentioned that the Decree of the President of Belarus No. 300 of June 1, 2005, "On providing and utilizing grants" (with amendments as of May 28, 2008), sets out those purposes for which a tax-exempt donation may be made by individual entrepreneurs and legal entities. For purposes other than those specified in the Decree, tax-exempt donations may be made either by decision or consent of the President.

⁹⁸ Article 5 of the Law on taxation of revenues and profits.

⁹⁹ Decree of the President of Belarus No. 374 of July 9, 2001, "On relieving the association of public organizations 'The Belorussian Confederation of Creative Unions' and other creative unions in the Republic of Belarus from the payment of income taxes and the value added tax" (with amendments as of September 7, 2006).

4. Taxation of revenues obtained on a gratuitous basis

Foreign gratuitous assistance, with the exception of international technical assistance and other types of foreign gratuitous assistance provided within the projects and programs approved by the President of Belarus, or made pursuant to international agreements of the Republic of Belarus, must be registered with the Department of Humanitarian Activities of the Administrative Department within the office of the President of Belarus (hereinafter “Administrative Department”).¹⁰⁰ Foreign gratuitous assistance is defined as financial resources, including those in foreign currency, goods (assets), gratuitously provided for ownership use, and operation to organizations and physical persons of the Republic of Belarus, by foreign states, international organizations, foreign organizations, and individuals, as well as by stateless persons or anonymous donors. A certificate issued by the Administrative Department is regarded as confirmation of registration. An organization may not use foreign gratuitous assistance that is subject to registration prior to obtaining the aforementioned certificate.

The recipient of foreign gratuitous assistance acquired in the form of financial resources, including those provided in a foreign currency, must deposit the funds with a Belorussian bank within five business days of acquisition or the date the resources were brought into Belarus. Any cash, including foreign currency, brought into Belarus as foreign gratuitous assistance must be declared in writing with the customs service by the bearer, with the exception of resources brought from participants in the Customs Union.

Presidential Decree No. 24 defines the purposes for which foreign gratuitous assistance may be utilized. Additional purposes for which foreign gratuitous assistance may be utilized may be defined by the Administrative Department, with the approval of the President of the Republic of Belarus. Foreign gratuitous assistance, including property and other assets obtained using such assistance, may not be used for carrying out extremist activities or other banned activities; preparation and implementation of elections and referenda; recall of a deputy or a Member of the Republic’s Council; organization and carrying out meetings, rallies, marches, demonstrations, pickets and strikes; manufacturing and disseminating propaganda; carrying out seminars and other forms of political and mass propaganda among the population.

Decree No. 24 provides an exemption for foreign gratuitous assistance used for the purposes specified in the Decree from customs duties and customs fees otherwise charged for executing documentation, VAT, excise duties, profits tax, and personal income tax of recipients of such assistance in the Republic of Belarus in accordance with a distribution plan, confirmed by the Administrative Department and approved of by the President of the Republic of Belarus. In practice, foreign grants may only be exempt from some taxes and duties, i.e. income tax.

¹⁰⁰ Decree of the President of Belarus No. 24 of November 28, 2003, “On acquiring and utilizing foreign grants” (with amendments as of May 29, 2008) (hereinafter referred to as Decree No. 24).

International technical assistance is a type of aid provided to the Republic of Belarus free of charge by international donors for a range of purposes specified in the legislation.¹⁰¹ Permitted purposes include: supporting social and economic transformations; protecting the environment; overcoming the consequences of the catastrophe at the Chernobyl nuclear power plant; developing infrastructure by way of carrying out research, training and exchange of experts, graduate and undergraduate students; transferring expertise and technology; providing financial resources, equipment and other goods (property) within the framework of approved projects of international technical assistance; and, organizing and/or carrying out seminars, conferences and other public forums.

International technical assistance may be provided to the Republic of Belarus on the basis of projects of international technical assistance developed by authorized government agencies, legal entities, and individuals in the Republic of Belarus. These projects must be established in accordance with the national priorities and criteria established by the National Program of international technical cooperation, and the projects developed by technical assistance donors that have been approved by the Council of Ministers of the Republic of Belarus.¹⁰²

International technical assistance may not be used for implementation of extremist activities or other actions banned by the legislation; preparation and implementation of elections, referenda, recall of a deputy or a Member of the Republic's Council; organization of and carrying out meetings, rallies, marches, demonstrations, pickets, or strikes; manufacturing and dissemination of propaganda materials; carrying out other forms of political and mass propaganda among the population.

Should a technical assistance donor and a recipient wish to develop a project that is not included in the National Program, it must be confirmed by a decree of the Council of Ministers of the Republic of Belarus. Upon confirmation by the donor of the intention to provide international technical assistance, the recipient of such assistance must obtain confirmation issued by a Republic government agency or other state institution authorized by the Government of Belarus to be a "lead organization."¹⁰³ Alternatively, the recipient may obtain confirmation by the Ministry of Foreign Affairs that the international technical assistance is consistent with the national interests of the Republic of Belarus. Upon receipt of such confirmation, an international technical assistance recipient that is not regarded as the subject of rule-making initiatives (that is, a non-governmental legal entity) must present the international technical assistance project, together with a draft decree by the Council of Ministers of the Republic of Belarus regarding approval of the project, to a regional executive committee or to the Minsk City executive committee, depending on the place of the recipient's state registration.¹⁰⁴ Upon approval by the

¹⁰¹ Decree of the President of Belarus No. 460 dated October 22, 2003, "On international technical assistance provided to the Republic of Belarus" (with amendments as of January 28, 2008) (hereinafter referred to as Decree No. 460).

¹⁰² Decree of the Council of Ministers of the Republic of Belarus No. 1522 of November 21, 2003, "On certain measures aimed at implementing the Decree of the President of Belarus No. 460 of October 22, 2003 (with amendments as of February 19, 2007) (hereinafter referred to as Decree of the Council of Ministers of Belarus No. 1522.)

¹⁰³ Decree of the Council of Ministers of the Republic of Belarus No. 1504 dated October 30, 2002, "On cooperation of the Republic of Belarus with international organizations" (with amendments as of December 22, 2008).

¹⁰⁴ Decree of the Council of Ministers of Belarus No. 1522.

Council of Ministers of the Republic of Belarus, issued in the form of a decree, the recipient should submit the international technical assistance project to the Ministry of Economy for registration.¹⁰⁵

The following elements of international technical assistance are exempt from the noted taxes:

- Goods brought into the customs territory of Belarus as international technical assistance are exempt from VAT, excise, and customs duties.
- Financial resources, including those in foreign currency and other assets (including those referred to as capital assets, goods, and material valuables and non-material assets) obtained as international technical assistance are exempt from profit tax.
- Revenue from transactions related to sales of goods sold and services provided on the territory of the Republic of Belarus for the purpose of providing international technical assistance are exempt from VAT, local deductions, and duties to the state budget and off-budget funds, local taxes, and duties.
- Property acquired with resources provided by technical assistance, or obtained as international technical assistance for the purpose of direct implementation of such assistance, are exempt from property taxes during the period the property is utilized for the assistance purpose.
- Revenue acquired by physical persons from the resources of international technical assistance shall be relieved of the payment of personal income taxes.¹⁰⁶

The Commission on International Cooperation of the Council of Ministers is responsible for reviewing and confirming the lists of assets (including financial resources), works, and services provided for the implementation of technical assistance projects that may be tax-free.¹⁰⁷

5. Taxation of income from entrepreneurial activities

The definition of entrepreneurial activities is set out in the Civil Code of the Republic of Belarus.¹⁰⁸ Entrepreneurial activities are the independent activities of legal entities and individuals carried out on their own behalf, at their own risk, and for which they are liable with their own assets, and which is aimed at systematically deriving profits from operating assets, sale of goods that were manufactured, processed, or acquired for subsequent sale, and from performing work/services for third parties that are not used by the provider internally.

Non-commercial organizations may carry out entrepreneurial activities both directly and by way of other legal entities they have established. According to the Civil Code, however, legislation may later be passed that permits certain types of non-commercial organizations to engage in entrepreneurial activities only by means of setting up or participating in commercial

¹⁰⁵ Decree of the Ministry of Economy of Belarus No. 246 dated December 19, 2003, “On establishing the procedure for registering projects (programs) of international technical assistance in the Republic of Belarus and the oversight over their implementation” (with amendments as of December 13, 2006).

¹⁰⁶ Decree of the President of Belarus No. 460.

¹⁰⁷ Decree of the Council of Ministers of Belarus No. 1522.

¹⁰⁸ Article 1 of the Civil Code of the Republic of Belarus adopted on December 7, 1998 (with subsequent amendments as of July 8, 2008).

organizations. At the legislative level, such requirements have been introduced for public associations. According to the Law of the Republic of Belarus “On Public Associations” of October 14, 1994, No. 3254-XII (with amendments), public associations and their unions may only carry out entrepreneurial activities by setting up a commercial organization or participating in their work. Associations (unions) of public organizations, in compliance with the Civil Code, may not carry out entrepreneurial activities. In the event that, pursuant to a resolution by participants, an association (union) of public organizations is authorized to engage in commercial activities, it will need to be reorganized into a for-profit entity or partnership, or it may set up a for-profit entity or partnership for the purpose of carrying out commercial activities.

Other NCOs may carry out entrepreneurial activity only to the extent the activity is necessary for the pursuit of their statutory goals, corresponds to the purposes of the organization, and is consistent with the organization’s activities, or inasmuch as it is needed for implementing socially valuable tasks specified in their statutory documents, the activity corresponds to these tasks, and is consistent with the type of the organization’s statutory activities.

Non-commercial organizations, as legal entities, may become founders or participants in commercial organizations whose entrepreneurial activities are not subject to the aforementioned restrictions. Nevertheless, the legislation prescribes that they may become founders or participants in for-profit entities whose activities must also correspond to the statutory goals and purposes of the parent non-profit. Profits obtained as a result of such activities should serve the purposes stipulated in the charter of a public association and may not be distributed among its members. Trade unions may be considered exceptions from this provision because, in compliance with the legislation, they are allowed to establish their own banks and insurance companies.¹⁰⁹

Thus, restrictions on entrepreneurial activities depend primarily on the goals and purposes of a non-commercial organization. Profits from entrepreneurial activities become taxable as of the moment of acquiring such profits.

In practical terms, taxation of profits of a non-commercial organization obtained as a result of their entrepreneurial activities is no different from the taxation of commercial organizations except for the cases discussed in this review.

6. Availability of exemptions for passive (investment) income

According to Article 35 of the Tax Code of the Republic of Belarus (General Provisions), a dividend is viewed as any revenue paid by a legal entity to an owner of its assets, or by an entity (other than a simple partnership) to a participant (shareholder) proportionally to the amount of shares held by this participant (shareholder), as his share in profits after taxation.

Irrespective of the type of arrangement, interest is viewed as any profit derived from any type of securities, promissory notes, deposit and saving certificates, cash deposits, and other similar promissory notes, except for those containing profit-sharing provisions.

¹⁰⁹ The Law of the Republic of Belarus No. 1605-XII of April 22, 1992, “On Trade Unions.”

Dividends and other similar profits are not considered profits from pursuit of statutory goals. Such profits do not include dividends acquired by the public associations, the Byelorussian Society of the Handicapped, the Byelorussian Society of the Deaf, and the Byelorussian Society of the Blind, or from unitary entities founded by these associations and established to pursue the goals declared in the charters of these associations.

7. Charitable Deductions

There are no deductions relating to donations to non-commercial organizations in Belarus.

B. VAT

1. Basic notions

Non-commercial organizations are considered VAT payers. VAT applies to the turnover from the sale of goods, works, services, or ownership rights on the territory of Belarus including the following:

- Turnover from the sale of goods, works, services, and ownership rights sold to an organization's employees.
- Turnover from the exchange of goods, works, services, and ownership rights.
- Turnover from the gratuitous transfer of goods, works, services, and ownership rights.¹¹⁰
- Transfer of goods, provision of services and works, and ownership rights according to an agreement on compensation and transfer of collateral to a creditor in the event of default, as prescribed by the legislation of the Republic of Belarus.
- Transfer of the property subject to lease from a lessor to a lessee.
- Transfer of the object of lease from a lease provider to a leaseholder.
- Other depreciation of assets due to standard of natural losses, other retirement of key assets and non-material assets or equipment that was not installed or capital construction that was not completed.¹¹¹

VAT applies to goods¹¹² brought into the customs territory of the Republic of Belarus.

¹¹⁰ A gratuitous transfer is understood as the provision of goods or services without pay, and with no payment obligations attached. The notion of a transfer of goods excludes the forced disposal of goods as a result of seizure, confiscation, court-imposed recovery of taxes, duties, fines, the transfer of inherited ownership rights and the proceeds from a transfer of ownerless assets and treasures to the state.

¹¹¹ Other retirement of goods, key assets, uninstalled equipment, unfinished capital construction and non-material assets shall include any factual event of their retirement except for sale, exchange and free of charge transfer.

¹¹² The provisions do not deal with cash or securities.

2. VAT rates

The most widely applied rate of VAT is 18 percent.¹¹³

Additionally, the following rates of VAT apply:

- Zero percent. A zero rate applies to exported goods, and the work and services related to accompanying, loading, reloading, and other similar jobs related to the export of goods. Ten percent. This rate applies to sales of Byelorussian crop production (except for sales of flowers and decorative plants), animal farming (except for fur farming), fish farming, and beekeeping; and, to food products and goods for children delivered to and/or sold on the territory of Belarus, as set out in the list approved by the President of the Republic of Belarus.

3. Registration

All legal entities must register with the internal revenue services, and there is no separate VAT registration, nor a minimum threshold for registering as a taxpayer.

4. Exemption for turnover and import for specific categories of organizations

The law of the Republic of Belarus “On Value Added Tax” provides for certain type of activities that are exempt from VAT:¹¹⁴

- Assets invested in the organization’s statutory fund in the amount prescribed by constituent documents.
- Turnover from transfer of goods (works, services) obtained in exchange for investment (membership) payments by members in non-commercial organizations.
- Turnover from compensation paid to a partnership of owners (condominium, construction cooperative, youth community residence association, associations of individual home owners, garage and construction cooperatives, consumer and parking cooperatives) and their members (participants), for the cost of purchased or implemented works (services) for these participants (members), and the cost of goods included in the overall cost of works (services) related to the upkeep and maintenance of immovable property.
- Gratuitous transfer of:
 - an organization’s property to its legal successor(s) in the course of the entity’s reorganization;
 - an organization’s assets to its founder (participant, shareholder) in an amount which does not exceed his/her investment into the organization’s capitalization, in the event of the organization’s dissolution, or in the event the founder (participant, shareholder) leaves (is expelled from) the organization.

¹¹³ The Law of the Republic of Belarus No. 1319-XII of December 19, 1991, “On the VAT” (with amendments as of November 13, 2008).

¹¹⁴ Article 3 of the Law on the VAT.

- property or works (services) transferred to (provided for) the Republic of Belarus or its administrative and territorial jurisdictions;
- property within the domain of one owner, when such transfer occurs by the owner's decision or by decision of a party authorized by the owner;
- property transferred to organizations engaged in activities related to crop production, animal and fish farming, and beekeeping, on condition of utilization of the assets for implementing activities related to crop production, animal and fish farming, or beekeeping.
- Turnover from compensating the lessor (lease provider) by the lessee (lease holder) of the cost of acquired works (services) related to rent (lease) that is not included in the rent (lease) payment.
- Turnover from compensation paid by employee to the employer for the cost of works (services) purchased for the employee by the employer.
- Turnover from the sale of shares.
- Turnover from the transfer of goods (including capital assets and non-material assets), provision of works and services, or transfer of ownership rights within one legal entity, whether for value or gratuitously.

When imported to the customs territory of the Republic of Belarus, the following goods are exempt from tax:¹¹⁵

- Technical vehicles, including motorized vehicles, which can not be used other than for handicaps and for the rehabilitation of the handicapped, medical (veterinary) items, prosthetic and orthopedic products, medical equipment, and also the raw materials and components for their manufacturing, as set out in the lists and under the conditions specified by the President of the Republic of Belarus.
- Goods and financial resources (including those in foreign currency) that are related to foreign grants or international technical assistance, following the procedure and under the conditions established by the President of the Republic of Belarus.
- Valuable works of art transferred as gifts to cultural institutions, following the procedure established by the Council of Ministers of the Republic of Belarus.

5. Exemption for specific categories of goods and services

Certain goods, services and works are exempt from VAT:

- Medicines, medical technologies, devices, equipment, and products related to health care, as well as medicines, devices, equipment, and products related to veterinary services, as set out in lists approved by the President of the Republic of Belarus.
- Medical services related to provision of medical and social care for hospitalized patients provided by taxpayers holding special permits (licenses) for providing medical care.
- Services related to care for the sick, handicapped, and elderly.

¹¹⁵ Article 4 of the Law on the VAT.

- Services related to pre-school educational establishments for children, teaching children and minors in interest groups, sports clubs, arts studios, music schools, and specialized educational institutions for young athletes.
- Services in the field of culture and arts, as set out in the list of services approved by the President of the Republic of Belarus.
- Religious literature and/or faith articles (except for those subject to excise duties) and services related to organizing and carrying out religious rites, ceremonies, worship, and other faith-related activities.
- Goods (works and services except for those subject to excise duties, brokerage, and other intermediary services, transfer of property for rent) provided by entities whose 50 percent of workforce engaged in production within the reported period consist of handicapped individuals.¹¹⁶

Certain specific public associations are exempt from VAT. Thus, for the purpose of developing creative activities and enhancing the material base of creative associations, the union of creative associations, such as the “Byelorussian Confederation of Creative Unions” and other creative unions, included in a specific decree, are free from the payment of VAT.¹¹⁷

C. Property, Real Estate and Land Taxes

1. General provisions

The values of capital assets constituting property, as well as objects of unfinished construction, are all subject to taxation.

A party utilizing imported property is liable for paying taxes that have been levied against capital assets imported into Belarus according to a lease or other agreements with foreign legal entities and physical persons. Similarly, the organization utilizing capital assets (except for housing, dachas, sheds, garages, and other buildings and constructions) is considered the taxpayer for property tax purposes.

The annual rate of property tax to be paid by organizations is 1 percent.¹¹⁸

The annual rate of property tax, estimated on the basis of the value of buildings and installations belonging to garage and construction cooperatives, parking cooperatives, and gardening partnerships, and constructed with the money invested by individual citizens, is established at 0.1 percent.

Legal entities allotted parcels of land for ownership, use, or operation, are considered land-tax payers. The amount of land tax is estimated proceeding from the quality and location of land

¹¹⁶ The average number of employees on the payroll may also include part-time workers and those working according to temporary work contracts or in compliance with other civil contractual agreements.

¹¹⁷ The Decree of the President of Belarus No. 374 of July 9, 2001.

¹¹⁸ The Law of the Republic of Belarus No. 1337-XII of December 23, 1991, “On the property tax” (with amendments as of November 13, 2008).

irrespective of the outcomes of commercial or other activities of the landowner or lease holder. Land tax is established as annual fixed payment per hectare of land.¹¹⁹

2. Tax Benefits

The following are exempt from property tax:¹²⁰

- sites owned by organizations and used for social and cultural purposes;
- capital assets of public associations: the Byelorussian Society of the Handicapped, the Byelorussian Society of the Deaf, the Byelorussian Society of the Blind, and subsidiaries of these legal entities, provided that handicapped people constitute not less than 50 percent of the employees of the entities and their subsidiaries over the tax period.
- capital assets earmarked for the protection of the environment and the improvement of ecology, as confirmed by the President of Belarus.
- material historic and cultural treasures included in the State register of the historic and cultural heritage of the Republic of Belarus, according to the list approved by the President of Belarus and under the condition that their owners have fulfilled obligations stipulated in the legislation regarding protection of historic and cultural heritage.
- faith-related buildings, including unfinished construction, belonging to religious organizations (associations) duly registered, and other key assets of religious organizations, as set out in a procedure established by the president of the Republic of Belarus.¹²¹
- capital assets (objects of joint use) of gardening partnerships acquired or created with resources invested as membership fees by their members, and as a result of their activities¹²².

In the event that capital assets, which are exempted from taxation or financed by the State budget and its budgetary organizations, are rented out (for compensation or otherwise), the acquired resources (except when the lease is provided to a budgetary organization or institution financed by the state budget) shall be subject to taxation in compliance with the general procedure.

Capital assets leased out for compensation or otherwise are exempt from taxation in the event the lessor is an educational establishment financed by the budget and the lessee is a children's educational organization, such as interest group, sports club, studio, music school, or specialized educational institution for young athletes.

Land tax is not levied in the following cases:¹²³

¹¹⁹ The Law of the Republic of Belarus No. 1314-XII of December 26, 2007, "On payments for land" (with amendments as of November 13, 2008).

¹²⁰ Article 4 of the Law on property tax.

¹²¹ Decree of the President of Belarus No. 571 of December 1, 2005, "On relieving religious organizations from the payment of land tax and property taxes" (with amendments as of February 11, 2009).

¹²² Decree of the President of Belarus No. 50 of January 28, 2008, "On measures aimed at regulating activities of gardening partnerships" (with amendments as of January 23, 2009).

¹²³ Article 18 of the Law on payments for land.

- The land parcels in question were provided for the purpose of pursuing statutory activities to organizations engaged in social and cultural activities, which receive subsidies from the Republic or a local budget, when the parcels of land are used by the Federation of Byelorussian trade unions implementing social and cultural activities, or by sanatoria and health resort institutions and youth sports schools irrespective of the type of ownership.
- Parcels of land are used by religious organizations following the procedure established by the President of Belarus.
- Parcels of land are used by organizations carrying out scientific activities or providing for such activities, in compliance with the list confirmed by the President of Belarus.

Local councils have the right to increase and decrease the rate of land tax and property tax for certain categories of taxpayers (up to two times bigger or two times smaller).¹²⁴

D. Other taxes

The legislation of the Republic of Belarus contains few tax privileges for non-commercial organizations and legal entities set up by non-commercial organizations. The system of taxation of NCOs is not contingent on the association's type of activities, except for public associations of the handicapped.

Besides the aforementioned privileges, the legislation of Belarus contains the following tax privileges for non-commercial organizations:

- Public associations, including the Byelorussian Society of the Handicapped, the Byelorussian Society of the Deaf, and the Byelorussian Society of the Blind, in which handicapped people constitute not less than 50 percent of the employees, are free from mandatory payments to the Republic fund supporting producers of agricultural products, food, and agrarian science.¹²⁵
- Public association of the handicapped, legal entities they set up, and their subsidiaries, in which handicapped people constitute not less than 50 percent over the reported tax period, are free from the payment of taxes on the purchase of motor vehicles.¹²⁶
- The sum of mandatory insurance payments to the Fund of Social Protection of the Population with the Ministry of Labor and Social Protection of the Republic of Belarus. The payment, which is estimated on the basis of payments to employees and payable at the end of the month, must exceed the sum of payment estimated from the minimum allowable wage established by the legislation for the reported month. This requirement of the mandatory minimum payment of social insurance is not applied to salaries and wages of employed handicapped individuals, individuals working for public and religious organizations (associations), or organizations engaged in agricultural production, where this type of activity constitutes over 50 percent of the overall volume of production.

¹²⁴ The Law of the Republic of Belarus No. 303-3 of December 26, 2007, "On the Budget of the Republic of Belarus for 2008".

¹²⁵ Article 8 of the Law on the Budget of the Republic of Belarus for 2008.

¹²⁶ The Law of the Republic of Belarus No. 1339-XII of December 23, 1991, "On road funds in the Republic of Belarus" (with amendments as of November 13, 2008).

- Income acquired by members of trade unions from their trade union organizations in the form of material support, gifts, bonuses and paid vouchers (not as compensation for performed works) in the overall amount not exceeding thirty base units¹²⁷ over the tax period is exempt from tax.

¹²⁷ The notion of “base unit” is applied when establishing the amount of pensions, stipends, allowances and other mandatory payments, as well as taxes, duties, fines and other payments. At the moment, according to Decree No. 1446 of the Council of Ministers of the Republic of Belarus dated November 2, 1007, “On establishing the amount of base unit,” the content of one base unit is fixed at the rate of 35.000 Byelorussian rubles (1 USD at the rate of the National Bank of Belarus equals 2.127 Byelorussian rubles).

GEORGIA

A. Income (Profits) Tax

1. Basic Notions

Profits tax is regulated in Georgia by Chapter XXIII of the Tax Code of Georgia (Tax Code).¹²⁸ Taxpayers of the profits tax are: “Georgian Enterprises” and “Foreign Enterprises.”¹²⁹ “Enterprises” are entities that perform an economic activity or that are established to perform such activity.¹³⁰

Taxable income is calculated as gross income minus deductions allowed under the Tax Code. “Gross income” consists of all income received in Georgia and outside of Georgia.¹³¹

Deductions exceeding gross income can be carried forward for the next five fiscal years.¹³²

2. Profits Tax Rates

Profits are taxed at the rate of 15 percent.¹³³

3. Wholly or Partially Exempt Organizations

Several groups of entities are partially or completely exempt from profits tax. These include budget-funded (state), charitable, and international organizations, among other entities.

Charitable organizations are exempt from profits tax, except for any profit from economic activity.¹³⁴

For an organization to receive charity organization status, it must:¹³⁵

- be created for carrying out charitable activities;
- be duly registered under the law; and
- have at least one year of experience conducting charitable activities.

Pursuant to the Tax Code,¹³⁶ charitable activity is activity aimed at aiding persons in need of assistance directly or through third persons, voluntarily and free of charge. Following this general definition, the Tax Code lists specific instances of charitable activities, including assistance to the following individuals or institutions: persons in need of social protection and medical assistance; vulnerable physical persons including the disabled, elderly, orphans, persons

¹²⁸ The Tax Code of Georgia, as of April 15, 2008.

¹²⁹ Article 169 of the Tax Code.

¹³⁰ Article 25 of the Tax Code.

¹³¹ Article 173 of the Tax Code.

¹³² Article 192 of the Tax Code.

¹³³ Article 171 of the Tax Code.

¹³⁴ Article 172 of the Tax Code.

¹³⁵ Article 32 of the Tax Code.

¹³⁶ Article 14 of the Tax Code.

left without a bread-winner; refugees; internally displaced persons (IDPs); patients; families with many children and other members; victims of wars, armed conflicts, accidents, natural disasters, catastrophes, epidemics, and/or epizootics; organizations caring for or serving children, elderly, and the disabled, including children's houses, boarding schools, pre-school and other children institutions; houses for the elderly; free dining rooms; medical institutions, rehabilitation centers; etc.

The Code also qualifies as charitable activities any undertakings of an organization for public benefit in the fields of human rights protection, environmental protection, democracy and civil society development, culture, education, science, arts, physical training sports, health care, and social protection.

Charitable organization status is granted by the Tax Inspection corresponding to the organization's location.¹³⁷ The Tax Inspection is obliged to grant or reject a request for charitable organization status within one month after an application is filed. If no decision is made within this period, charitable organization status is deemed granted.

Charitable organization status brings an organization not just tax benefits, but also a number of additional duties:

- A charitable organization must provide the relevant tax inspection with:
 - A program activity report for the preceding year, including a description of activities (economic, among others);
 - A financial report on income received, identifying sources, and relevant expenditures; and
 - Financial documentation for the prior year, certified by an independent auditor.
- A charitable organization should ensure that its program activity report and financial documentation for the prior year (balance and profit/loss report) are published in the press and available for all interested parties.

The Tax Code of Georgia also provides for revocation of charitable organization status under the following circumstances:¹³⁸

- on the initiative of the organization; or
- when an organization is deprived of its status because it violates the requirements of the Tax Code or its civil (state) registration is cancelled.

Charitable organization status is deprived when the Minister of Finance, following a motion of the relevant tax inspection, issues an individual-legal act. An organization may appeal an individual-legal act of the Minister of Finance in court within one month after receiving the act. An organization that is deprived of charitable organization status has the right to file an application to restore the status no earlier than one year after resolving the reason for the deprivation.

¹³⁷ Article 32 of the Tax Code.

¹³⁸ Article 32 of the Tax Code.

The grants, membership fees, and donations received by an organization are also exempt from profits tax.

If an organization carries out economic activity, the parts of its property and activities which are directly connected to its economic activity are recognized to be the activities and property of an enterprise.¹³⁹

4. Taxation of Revenues Obtained on a Gratuitous Basis

Grants, membership fees, and donations received by an “organization” are exempt from profit tax.¹⁴⁰ (See Section A (3) above.)

The Law of Georgia on Grants (Law on Grants)¹⁴¹ regulates grants to organizations. Grants are resources gratuitously transferred, in cash or in kind, from a grantor (donor) to a grantee for use in specific humanitarian, educational, scientific-research, health care, cultural, sporting, ecological, and social projects, as well as for implementation of programs of state or public importance. Resources transferred in order to achieve entrepreneurial or political goals are not considered grants.¹⁴²

The Law on Grants extremely carefully defines a grant "issuer," or grantor, and "recipient," as well as the relations between them, in order to avoid abuse of tax benefits. The Law on Grants recognizes that the following may be grantors: international private or public organizations; foreign states; and, Georgian non-entrepreneurial legal persons whose primary purpose is to support charitable, social, cultural, educational, scientific research, and other activities beneficial to the public.¹⁴³

Under the Law on Grants, recipients of grants may be the state of Georgia, any governmental body, a resident or non-resident non-entrepreneurial legal person of Georgia or their subdivisions, as well as citizens of Georgia.¹⁴⁴

The grantor and grant recipient must undertake a written agreement, which should indicate the purpose of the grant, amount, specific directions for use of the donated resources, deadlines for utilization, and the major requirements that the donor imposes on the recipient. Grants are issued to achieve specific purposes benefiting the public. Nevertheless, the target of a grant may be changed with the donor’s consent, and the grant may then be used for different purposes.

5. Taxation of Income from Entrepreneurial Activities

¹³⁹ Article 30 of the Tax Code.

¹⁴⁰ Article 172 of the Tax Code.

¹⁴¹ The Law of Georgia on Grants, as of June 28, 1996.

¹⁴² Article 2 of the Law on Grants.

¹⁴³ Article 3 of the Law on Grants.

¹⁴⁴ Article 4 of the Law on Grants.

According to civil legislation, non-entrepreneurial legal persons may engage in any legal activity, regardless of whether the activity is stipulated in the legal person's charter.¹⁴⁵ Further, the Civil Code¹⁴⁶ provides that auxiliary entrepreneurial activities that serve to accomplish the statutory purposes of the organization do not alter the non-entrepreneurial nature of the organization.

Economic activity is described in Article 13 of the Tax Code as “any activity aimed at receiving profits, income, or compensation, regardless of the result of such activity.” Economic activity may be entrepreneurial (conducted through sales or business operations) and non-entrepreneurial (transfer of property).¹⁴⁷

As a general rule, profits from economic activities of all organizations, including charitable organizations, are subject to the profits tax. The Tax Code, however, provides for several exceptions.

Charitable and religious activities are not regarded as economic activities. Charitable activity is activity aimed at assisting persons in need of assistance directly or through third persons, voluntarily and free of charge.¹⁴⁸ The Code also qualifies as charitable activities any undertakings of an organization for public benefit. The income generated from charitable activities is exempt from profits tax. (See Section A (3) above.)

6. Availability of Exemptions for Passive (Investment) Income

There are no exemptions for passive investment income. The Tax Code covers much of what we call “passive income” in Article 13 under “Non-entrepreneurial economic activity.” Non-entrepreneurial economic activities, like entrepreneurial activities, are a category of “economic activities” on which profits taxes must be paid. Non-entrepreneurial economic activities include:

- depositing money at banks and credit institutions;
- property rental;
- property management by proxy; and
- purchase/sale of securities or shares in the authorized capital of an enterprise, acquisition/sale of bonds or other promissory notes, purchase/sale of investment funds, or sale of copyrights or other similar rights.¹⁴⁹

7. Regulation of Expenditures

The Georgian Tax Code has no rules governing minimum levels of expenditures of funds held by organizations.

¹⁴⁵ Article 25 of the Civil Code.

¹⁴⁶ Article 25 of the Civil Code.

¹⁴⁷ Article 13 of the Tax Code.

¹⁴⁸ Article 14 of the Tax Code.

¹⁴⁹ Article 13 of the Tax Code. The sale/purchase of securities is regarded as an entrepreneurial activity if it is either (i) performed on a continuous basis and is a professional activity, (ii) related to the sale of goods produced by a seller, or (iii) carried out within the framework of a trade or intermediary activities.

Certain limitations, however, are established in the Law on Grants for expenditures of grant funds. Grants may be used only for the purposes stipulated in the contract between the grantor and grantee. Use of a grant for other purposes shall be allowed only with the permission of the grantor (See A (4)). Re-selling of the values received through the grant shall be allowed only if so predetermined in the grant contract between the grantor and grantee.¹⁵⁰

8. Deduction of Charitable Contributions

The Tax Code includes one of the most important mechanisms for stimulating charity activities: deductibility of donations. Pursuant to Article 186 of the Tax Code, amounts donated to charitable organizations by a business entity are deducted from the total incomes of the entity up to 8 percent of its annual taxable income.

B. VAT

1. Basic Notions

Part 10 of the Tax Code regulates the Value Added Tax (VAT). VAT is collected on any supply of goods, works, and services within the territory of Georgia, as well as on all taxable goods imported into Georgia. Exports are taxed at a zero rate.

VAT taxpayers are persons that carry out VAT-taxable economic activities of GEL 100,000 lari¹⁵¹ (approx. 60,000 USD) or more in a year.¹⁵² The GEL 100,000 threshold may be reached by regular and continuous economic activity, by a one-time purchase in that amount, or by any combination thereof.

Taxable transactions include imports and goods/services provided. The value of transactions is determined either by the amount of actual compensation received (for sales/services in exchange for cash or credit) or by the fair market value of the goods (in case of barter/trade or in cases where goods are provided on a gratuitous basis or otherwise are provided below cost).

These rules harm non-entrepreneurial organizations that provide goods or services for compensation below market value or on a cost-free basis, since required VAT payments reduce the amount of funds that may be dedicated to the groups' statutory purposes.

Donors face the same difficulty, as they are required to pay VAT even when providing goods or services at below-market prices or on a gratuitous basis. This may lead donors to refrain from donating or to donate less to compensate for any VAT they must pay on their charitable giving.

2. VAT Rates

The standard VAT rate is 18 percent.

¹⁵⁰ Article 5 of the Law on Grants.

¹⁵¹ Article 221 of the Tax Code.

¹⁵² A "year" is any continuous 12-month period.

Zero-rated goods include:

- exports;
- goods and services for the official use of foreign diplomatic representations;
- tourism;
- services and supplies related to international transportation; and
- gold transferred to the National Bank of Georgia.¹⁵³

3. Registration

Organizations whose turnover exceeds GEL 100,000 (approx. 60,000 USD) threshold for a 12-month period must register as VAT taxpayers.¹⁵⁴

Article 222 of the Tax Code provides that legal persons whose annual turnover is below the GEL 100,000 threshold may voluntarily choose to register as VAT taxpayers.

4. Exemption for Turnover and Imports of Specific Categories of Goods and Services

The Tax Code provides a list of transactions that are exempt from VAT, with no restrictions on which entities can benefit from these exemptions. Exempted transactions include:¹⁵⁵

- imports of goods for humanitarian aid, and goods falling within the category of grants, in accordance with the Law of Georgia on “Humanitarian Aid and State Grants;” and services rendered on the basis of agreements that are financed for above-mentioned reasons by a foreign organization, when one participating party is an executive body of the government of Georgia. (The relevant rules on rendering of services within contracts are established by the Government of Georgia.);
- supply by the Georgian Patriarchate of crosses, candles, icons, books, and calendars used exclusively for religious purposes; the construction, restoration, and painting by order of the Georgian Patriarchate of cathedrals and monasteries, as well as reconstruction, restoration, conservation works, and archeological excavations provided by state programs for protection and revival of the historical and cultural monuments of Georgia included in the list of world heritage treasures;
- educational services rendered by educational institutions, and imports of computer engineering, equipment, and chemicals necessary for scientific and educational activities;
- medical services and care rendered to children in child shelters, sick, disabled, and elderly people, and /or activities under state health care programs;

¹⁵³ Articles 231-237 of the Tax Code.

¹⁵⁴ Article 221 of the Tax Code.

¹⁵⁵ Article 230 of the Tax Code.

- supplies of goods and services related to publications, including, imports of goods such as notebooks, books, newspapers, and journals; services such as printing and/or advertising rendered by newspapers and journals;
- educational services in art and sports rendered to children under 16 years old, and care services rendered at preschool institutions;
- imports of goods intended for the official use of foreign diplomatic representative offices, and also for the personal use of diplomatic, administrative, and technical personnel of these representative offices (including family members living with them) to the extent that the exemption is required by relevant international agreements to which Georgia is a party; imports of goods of Georgian diplomatic representatives outside Georgia, and imports of personal effects and household items for the personal use of foreign citizens and their families that are involved in the oil and gas extraction industry in Georgia;
- the supply and/or import of baby food and infant hygiene products marked as such for wholesale/retail sale; and
- the supply and/or import of diabetic foodstuffs marked as such for wholesale /retail sale.

5. VAT Rebate Procedure

A grant recipient is entitled to a refund on any VAT it has paid on those goods or services purchased within the framework of the grant agreement. VAT will be refunded only if the relevant notice is submitted within 3 months following payment for goods or services.¹⁵⁶

Excess VAT payments in a given VAT period can be carried forward to the next reporting period or shall be refunded within six months of receipt of an application for a refund.¹⁵⁷

C. Property Tax

1. Basic Notions

A property taxpayer is a person that:

- owns an object taxable by this tax; or
- has the right to use property by virtue of legislation or under factual ownership of a state-owned land plot.

A taxable object subject to property tax includes:

- For a Georgian enterprise: fixed assets, non-assembled equipment, unfinished capital investments, and intangible assets existing on its balance sheet;
- For an organization: property, or a part of property, listed on its balance sheet and used for economic activity;
- For a Georgian or foreign enterprise, organization, and/or physical person, a taxable

¹⁵⁶ Article 252 of the Tax Code

¹⁵⁷ Article 251 of the Tax Code.

object under the property tax also includes:

- a land plot owned by the taxpayer; and
- a state-owned land plot which the taxpayer enjoys the right to use by virtue of legislation or factual ownership.

The tax rate for taxable objects defined in sections 1 and 2 above, is no more than 1 percent of the average annual value of assets on the balance at the beginning and at the end of calendar year.

For persons specified in section 3 above, a base tax rate payable on agricultural land shall be differentiated according to administrative units and shall be computed per one hectare per annum, in GEL.

2. Tax Benefits

Non-entrepreneurial organizations enjoy several tax benefits and exemptions related to the taxes identified above.

Under Article 276, the following types of property are exempt from property tax:

- property other than land that is used for environmental protection and fire protection;
- property of organizations, except property used for economic activity;
- land used for the protection of native and historical monuments and containing structures recognized by the state as monuments of history, culture, and architecture, unless they are used for entrepreneurial activity (selling entrance tickets is not considered to be entrepreneurial activity for these purposes);
- natural parks, botanical and dendrite gardens, municipal parks for culture and relaxation, cemeteries, zoological gardens and parks, oceanographic stations, alleys, preserves, arboretums, and forestry organizations, as well as open departmental gardens and forests, other than plots used for entrepreneurial activity;
- land plots allocated to disabled veterans of the Second World War and persons equated with them through privatization;
- property of medical establishments used for medical activities;
- land plots which are allocated to scientific research, educational institutions, experimental breeding stations, and experimental farm plots, used for scientific and educational purposes and financed from the budget (public funds);
- plots which are allocated for the purposes of societies and organizations for the blind, deaf, and dumb, retarded persons, or physically disabled children, veterans of war, elderly houses, orphanages and boarding schools, as well as centers of social adaptation and work-related rehabilitation of teens, when the plots are used to execute the entities' main functions and are funded from the budget (public fund); and
- plots of land used by orphanages, boarding schools, children's villages, and kindergartens used for child care and education provided free of charge, if these land plots are not used for economic activity.

D. Other Tax Issues

Individual Income Tax: The tax rate was increased from 12 percent to 25 percent¹⁵⁸ as of January 1, 2008. For individuals who receive remuneration from grants, the 12-percent rate will continue to be applied through January 1, 2011.

Social Tax: The social tax was abolished as of January 1, 2008.

Excise Tax: Goods subject to excise tax in Georgia are essentially limited to fuels, tobacco, and alcohol products.

Customs Taxes and Fees: The tax rate is 12 percent.¹⁵⁹ Pursuant to rules established by the President of Georgia, goods imported under grant agreements are exempt from customs taxes and fees.¹⁶⁰

¹⁵⁸ Article 167 of the Tax Code.

¹⁵⁹ Article 270 of the Tax Code.

¹⁶⁰ Article 270 of the Tax Code.

KAZAKHSTAN

A. Income (Profits) Tax

1. Basic Notions

The Tax Code of the Republic of Kazakhstan¹⁶¹ (Tax Code) regulates corporate income tax and all other taxes in Kazakhstan; this survey discusses only taxation of residents. The corporate income tax is applied to legal entities that are residents of the Republic of Kazakhstan as well as non-resident entities that conduct their activities through a permanent establishment in Kazakhstan or otherwise derive income from sources within Kazakhstan.

Resident taxpayers are taxed on taxable income, defined as the difference between the aggregate annual income (taking into consideration permitted adjustments) and deductions allowed by the Tax Code.¹⁶²

2. Tax Rates

The basic corporate tax rate is 20 percent,¹⁶³ but several exceptions apply:

- A 15-percent rate applies to income taxed at the source;¹⁶⁴
- A 10-percent tax rate applies to taxpayers for whom land constitutes the primary means of production.

3. Wholly or Partially Exempt Organizations

The Tax Code of Kazakhstan defines three categories of organizations that enjoy some tax exemptions: non-commercial organizations (NCOs), and two kinds of social sphere organizations (SSOs), discussed below.

Non-Commercial Organizations: The Tax Code defines NCOs as organizations registered in a form stipulated by civil legislation for NCOs, excluding joint stock companies, institutions and consumer cooperatives, apart from cooperatives of the owners of residential and business apartments. Under the civil legislation, an NCO may take many forms, including *inter alia*, public associations, public foundations, religious organizations, associations (or unions) of legal entities, notary chambers, bar associations, chambers of trade and commerce, auditing chambers, and cooperatives of the owners of apartments.

¹⁶¹ The Tax Code as of December 10, 2008 (effective January 1, 2009) (with subsequent amendments as of February 13, 2009).

¹⁶² Article 83 of the Tax Code. Articles 84 – 98 list items included in the aggregate annual income, and Articles 99-114 and 116-122 contain allowable deductions.

¹⁶³ Article 147 (1) of the Tax Code. The 20-percent rate is stipulated for 2009. For 2010 it will be 17.5 percent and for 2011 and later it will be 15 percent.

¹⁶⁴ Article 147 (3) of the Tax Code. Starting January 1, 2011 this rate will be 10 percent.

The Tax Code, however, adds additional requirements for qualification of an organization as non-commercial, which resemble, but are not equivalent to, characteristics of NCOs under civil legislation. First, the organization must be conducting activities in service of a public interest, a condition not required under the civil legislation and not defined in the Tax Code. Second, the organization may not have as its purpose the pursuit of profit (whereas civil legislation requires that this only not be the primary purpose). Finally, the NCO must not distribute any net income or property among its participants.¹⁶⁵

To our knowledge, the tax authorities currently do not inquire as to compliance with these three conditions in deciding whether the organization qualifies as an NCO for tax purposes, but focus instead solely on the legal form of the organization.

NCOs are granted limited tax benefits, including exemptions for (1) specific types of income obtained on a gratuitous basis; (2) specific types of passive (investment) income called “premium” and (3) certain types of active economic income. These exemptions are discussed in more detail at A4, A5, and A6 below.

Social-sphere organizations: There are two categories of SSOs:

- Organizations (regardless of legal form) deriving no less than 90 percent of their gross annual income from provision of services or conduct of activities in enumerated fields, basically limited to healthcare, child care and education, science, sports, culture, library services, and social welfare of children, the elderly, and disabled persons¹⁶⁶ (hereinafter, “exempt activities”); and
- Organizations (also regardless of legal form) meeting the following criteria¹⁶⁷ (hereinafter, “handicapped labor organizations”):
 - at least 51 percent of the employees of the organization must qualify as disabled; and
 - wages paid to the disabled employees must comprise no less than 51 percent of the organization’s overall payroll (this number is further reduced to 35 percent for specialized organizations employing hearing-, speech-, or vision-impaired workers).

SSOs are broadly exempt under Article 135 from corporate tax on income received on a gratuitous basis, passive (investment) income (except for such taxed at the source at the lower rate under other rules), and income earned from entrepreneurial activities.

The blanket exemption, however, is subject to some conditions and limitations. First, the exemption is not available to SSOs that engage in manufacturing or sale of goods subject to excise tax, or conduct activities subject to excise tax.¹⁶⁸

¹⁶⁵ Article 134 (1) of the Tax Code.

¹⁶⁶ Article 135 (2) of the Tax Code.

¹⁶⁷ Article 135 (3) of the Tax Code. The full rule reads as follows: “during the respective tax period, handicapped employees shall comprise no less than 51 percent of the overall number of workers, and the wages shall amount to no less than 51 percent of the overall wages. For specialized organizations employing hearing-, speech- or vision-impaired the latter figure is 35 percent.”

In addition, the exemption for SSOs determined on the basis of exempt activities is available only if the SSO's entire income is used for the performance of exempt activities. It is also unclear from the text of this provision whether violation of this rule will result in taxation of only that part of the income that was misused, or in loss of the entire exemption.

4. Taxation of Revenues Obtained on a Gratuitous Basis

Article 134 (2) of the Tax Code provides that NCOs are exempt from taxation of income received "in the form of ... grants, entry and membership fees, ... charitable and sponsorship aid, gratuitously transferred property, subsidies, and donations."¹⁶⁹ An NCO must account for such income separately from taxable income.¹⁷⁰

Pursuant to Article 135, SSOs are exempt from taxation on income received from engaging in specified activities and gratuitously received property (so long as the income is directed towards exempt activities), without specifying particular types of such receipts.¹⁷¹

A "grant," as defined by the Tax Code, is

"property provided on a gratuitous basis for attainment of particular goals:

by states and state governments to the Republic of Kazakhstan, the Government of the Republic of Kazakhstan, natural persons, and legal entities;

by international and governmental organizations, as well as by foreign non-governmental organizations or foundations (whose activity is of charitable and international character and does not contradict the Constitution of the Republic of Kazakhstan and which is included on a list established by the Government of the Republic of Kazakhstan by conclusion of governmental agencies) to the Republic of Kazakhstan, the Government of the Republic of Kazakhstan, natural persons, and legal entities; [and]

by foreigners and stateless persons to the Republic of Kazakhstan and to the Government of the Republic of Kazakhstan."¹⁷²

Currently there are no official criteria for inclusion on the list of entities entitled to provide grants. The list is established by a Resolution¹⁷³ of the Government and annually updated on the basis of recommendations put forward by Kazakh governmental agencies.

¹⁶⁸ Article 135 (4) of the Tax Code.

¹⁶⁹ Article 96 of the Tax Code.

¹⁷⁰ Article 134 (4) of the Tax Code. No sanctions for non-compliance are explicitly imposed by the Tax Code, though it is likely that the exemption would not be applied if the organization fails to keep separate accounting.

¹⁷¹ Article 135 (2) of the Tax Code.

¹⁷² Article 12 (1)(11) of the Tax Code.

¹⁷³ Resolution No. 376 of the Government of Kazakhstan as of March 20, 2009.

5. Taxation of Income from Entrepreneurial Activities

The Civil Code¹⁷⁴ generally defines “entrepreneurial activity” as business activity undertaken by natural and legal persons at their own initiative, whether the legal entity is owned by the state or private persons, which is aimed at deriving profits by satisfying a demand for goods, works, or services.¹⁷⁵ The Tax Code does not define entrepreneurial activity, but as a matter of practice, it is understood to include any activity with the purpose of deriving income, including income commonly viewed as passive (investment) income.

The Tax Code contains two specific exemptions for income earned by NCOs from economic or entrepreneurial activity.

Pursuant to Article 134 (2) of the Tax Code, NCOs are exempt from taxation of “income received under a state social contract, [and] fees from condominium owners.”

The first exemption is applicable only to recipients of Government funds under state social contracts, which are governed by the special Law on State Social Contracts of 2005 and treated as commercial state procurement contracts.

The second exemption is available only to cooperatives of the owners of apartments, which collect so-called “fees from condominium owners.” It was established to fix exempted status for the main source of income collected by these cooperatives: fees collected from owners for the purpose of providing maintenance and repairs to the premises.

It is worth mentioning that income derived from both types of economic activities is classified as entrepreneurial income only by formal determination, while the essence of both types of such activities is truly not-for-profit.

The Tax Code exempts SSOs from taxation on income earned from all activities, whether or not those activities could be considered entrepreneurial. However, the blanket exemption is applicable only so long as income from specified categories of exempt activity accounts for 90 percent or more of the gross annual income. Thus, engaging in entrepreneurial activity that is not in an exempt field of activity could result in the loss of all tax privileges, if the income from exempt activity falls below 90 percent of the gross annual income.

According to local tax experts, a denial of the right to an exemption will result in imposition of income tax for the tax period (whole financial year) in which the organization failed to qualify.

6. Availability of Exemptions for Passive (Investment) Income

NCOs are exempt from taxation of “premium on bank deposits,” which is the interest earned on bank deposits.¹⁷⁶ However, similar to many other NIS countries, NCOs are not able to obtain the

¹⁷⁴ The Civil Code of the Republic of Kazakhstan as of December 27, 1994 (with subsequent amendments as of December 11, 2008).

¹⁷⁵ Article 10 (1) of the Civil Code.

¹⁷⁶ Article 134 (2) of the Tax Code.

benefit of this exemption because the Tax Code also provides that passive income (which includes dividends and interest on debt instruments, as well as interest on bank deposits) are subject to withholding at the source at the rate of 15 percent for all resident legal entities, including NCOs.¹⁷⁷

Other forms of passive income, such as rental income, are taxed under the general rules.

SSOs as such are not specifically exempt from taxation on passive income. The blanket exemption from corporate income tax that they enjoy, so long as they satisfy Article 135 of the Tax Code, should exempt them from taxation of all forms of passive income. However, in reality, the passive income of SSOs is taxed at the source (at the rate of 15 percent), as it is for NCOs.

7. Regulation of Expenditures

The Tax Code contains no requirements as to the volume or timing of expenditures by NCOs.

All income of SSOs must be spent carrying out exempt activities, although no time limits are specified in the Tax Code. This requirement is not applicable to handicapped labor organizations.

8. Deduction of Charitable Contributions

The taxable income of a taxpayer (legal entity) can be decreased by up to three percent of the gross taxable income by the value of any property (including works and services) gratuitously transferred to an NCO or SSO, including sponsorship aid.¹⁷⁸ No deductions are available to individual taxpayers for such contributions.

B. VAT

1. Basic Notions

For the purpose of VAT, “taxpayers” are legal and natural persons with annual turnover exceeding 30,000 times the monthly payment unit (MPU), which is a unit fixed annually by the Parliament of the Republic of Kazakhstan¹⁷⁹ (for the year 2009, the MPU is 1273 tenge,¹⁸⁰ or approximately 8.5 USD).

Turnover and the value of imported goods are taxed under the VAT.¹⁸¹

¹⁷⁷ Article 147 (1) of the Tax Code.

¹⁷⁸ Article 133 (1) (1) of the Tax Code.

¹⁷⁹ Article 568 (5) of the Tax Code.

¹⁸⁰ Established annually by the Law on Republican Budget. For 2009 is fixed in Article 8 (4) of the Law on Republican [federal] Budget for 2009-2011 as of December 4, 2008.

¹⁸¹ Article 230 and 246 of the Tax Code.

2. VAT Rates

The VAT rate is 12 percent.¹⁸² A zero-rating applies to exports,¹⁸³ international transportation,¹⁸⁴ and certain goods produced under extraction contracts.¹⁸⁵ No zero-rating or otherwise discounted rates are available for socially beneficial or other non-profit activities; however, certain exemptions from VAT apply, as discussed below.

3. Registration

Legal and natural persons are obliged to register as taxpayers if their annual VAT-taxable turnover exceeds 30,000 times the MPU.

Voluntary registration is allowed if a legal or natural person is engaging in or intends to engage in VAT-taxable business.¹⁸⁶

4. Exemption for Turnover and Import for Specific Categories of Organizations

Public associations of disabled persons and production organizations¹⁸⁷ enjoy exemptions from VAT on supplies of goods, works, and services,¹⁸⁸ so long as they satisfy the following conditions:¹⁸⁹

- at least 51 percent of the employees of the organization must qualify as disabled; and
- wages paid to the disabled employees must comprise no less than 51 percent of the organization's overall payroll (this number is further reduced to 35 percent for specialized organizations employing hearing-, speech-, or vision-impaired workers).

Turnover of the supply of services by NCOs is exempt from VAT if related to:

- the provision of services for protection and social welfare of children, the elderly, war and labor veterans, and disabled persons;¹⁹⁰ and
- religious services and the sale of religious goods by religious organizations.¹⁹¹

5. Exemption for Specific Categories of Goods and Services

Turnover of the following, regardless of the identity of the supplier as commercial or non-commercial, are exempt:

¹⁸² Article 268 of the Tax Code.

¹⁸³ Articles 242 and 243 of the Tax Code.

¹⁸⁴ Article 244 of the Tax Code.

¹⁸⁵ Article 245 of the Tax Code.

¹⁸⁶ Article 569 of the Tax Code.

¹⁸⁷ The term "production organization" is not defined in the Tax Code.

¹⁸⁸ Excluding trade intermediation and excised goods and activities.

¹⁸⁹ Article 248 (13) of the Tax Code.

¹⁹⁰ Article 252 (1) of the Tax Code.

¹⁹¹ Article 252 (2) of the Tax Code.

- enumerated services provided in the fields of culture, the sciences, and education;¹⁹²
- medical (except cosmetic), orthopedic, and veterinary goods, services in certain enumerated cases, and others specified by the government;¹⁹³ and
- services pertaining to the management, maintenance, and operation of residential buildings.¹⁹⁴

The following imports are exempt:

- goods (except for goods subject to excise tax) imported for humanitarian purposes, in accordance with the procedure established by the Government of the Republic of Kazakhstan;¹⁹⁵
- goods (except for goods subject to excise tax) imported for charitable purposes (including as technical assistance), under the auspices of states, state governments, and international organizations;¹⁹⁶
- goods acquired using grants provided under the auspices of states, state governments, and international organizations.¹⁹⁷

VAT paid when buying goods, works, and services in the territory of the Republic of Kazakhstan using grants provided under the auspices of states, state governments, and international organizations is also refundable from the Government.¹⁹⁸

6. VAT Refund Procedure

As a general rule, the excess of VAT paid on incoming goods, works, and services and subject to offset against outgoing VAT can be claimed for refund.¹⁹⁹

The Tax Code establishes the specific procedure for refund of VAT on goods, works, and services purchased with grant money provided under the auspices of states, state governments, and international organizations.²⁰⁰ VAT on goods, works, and services purchased with grant money must be refunded to the governmental agency which is the recipient and beneficiary of such grant, or the contractor appointed by such governmental agency, within 30 business days if the following conditions are satisfied:

- the funds are provided under the auspices of a state, state government, or an international organization;

¹⁹² Article 253 of the Tax Code.

¹⁹³ Article 254 of the Tax Code.

¹⁹⁴ Article 248 (11) of the Tax Code. This may be of relevance to homeowners' cooperatives.

¹⁹⁵ Article 255 (1) (3) of the Tax Code.

¹⁹⁶ Article 255 (1) (4) of the Tax Code.

¹⁹⁷ Article 255 (1) (10) of the Tax Code. It should be noted that although grants are classified as "property" by the Tax Code, the goods representing a grant in kind (as opposed to any goods acquired using the funds of a cash grant) are formally not exempt from import VAT by this clause.

¹⁹⁸ Article 272 (1) (2) of the Tax Code.

¹⁹⁹ Article 272 of the Tax Code.

²⁰⁰ Article 275 of the Tax Code.

- the goods, works, or services are acquired exclusively for the purposes for which the grant is provided; and
- the goods, works or services are supplied under an agreement concluded with the actual recipient of the grant or with a contractor appointed by the recipient for implementation of the purpose of the grant.

This procedure for VAT refunds also applies to recipients and contractors that are not registered as VAT payers.

C. Property Tax (Real Estate Improvements) and Land Tax

1. Applicable Taxes

Real estate is subject to property tax, land tax, and fees payable upon registration of the rights thereto. Property tax is calculated on the basis of the annual average residual book value of the real estate²⁰¹ and is payable in three equal installments during the fiscal year: February 25, August 25, and November 25.²⁰² The tax base for land tax is determined according to the area of the land.²⁰³ The Tax Code also establishes fees payable at registration.

2. Tax Benefits

NCOs as well as SSOs (regardless of organizational form) and certain other organizations enjoy a reduced property tax rate of 0.1 percent²⁰⁴ (compared with the standard rate of 1.5 percent).²⁰⁵

NCOs and SSOs (those providing social services) pay land tax at a reduced rate of 10 percent of the standard assessment.²⁰⁶ Handicapped labor organizations are exempt from land tax.²⁰⁷

Religious organizations enjoy full exemptions from property²⁰⁸ and land taxes.²⁰⁹

None of the reduced rates and exemptions noted above apply to land rented out or given for use to any third party by such organizations, except for handicapped labor organizations, which may rent out their land and real estate without effect on their exemption from land tax and the reduced rate for property tax.²¹⁰

D. Miscellaneous: Other Exemptions and Benefits

²⁰¹ Article 397 of the Tax Code.

²⁰² Article 399 of the Tax Code.

²⁰³ Articles 377 to 386 of the Tax Code.

²⁰⁴ Articles 398 (3) (1) to 398 (3) (3) of the Tax Code.

²⁰⁵ Article 398 (1) of the Tax Code.

²⁰⁶ Articles 387 (2) (2) and 387 (2) (3) of the Tax Code.

²⁰⁷ Article 387 (3) of the Tax Code.

²⁰⁸ Article 394 (4) (4) of the Tax Code.

²⁰⁹ Article 373 (3) (7) of the Tax Code.

²¹⁰ Articles 387 (4) and 398 (4) of the Tax Code.

NCOs and SSOs enjoy other tax benefits, including benefits in social taxes, state dues, and registration fees.

1. Social (Payroll) Tax

Payments out of grants provided under the auspices of states, state governments, or international organizations are not subject to social taxes.²¹¹

A decreased social-tax rate (4.5 percent) applies to specialized organizations employing movement-, hearing-, speech-, or vision-impaired individuals, if the organization satisfies conditions established by Tax Code in its Article 135 (3) for handicapped labor organizations.²¹² Otherwise, NCOs and SSOs pay this tax at the rate of 11 percent.²¹³

2. Individual Income Tax

Individual income tax does not apply to the following revenues received by individuals from NCOs and SSOs:²¹⁴

- payments (except wage payments) made out of grants;
- humanitarian assistance;
- charitable assistance and sponsorship assistance;
- certain forms of educational assistance; and
- the value of trips to children's camps for children below the age of 16 years.

3. State Fees

Certain categories of NCOs enjoy exemptions from payment of certain state fees. For instance:

- public associations of handicapped persons and/or organizations established by such associations, where at least 35 percent of employees are hearing-, speech-, or vision-impaired individuals, are exempt from paying court fees when filing claims in their interest;²¹⁵
- the Kazakhstan Voluntary Society of the Handicapped, the Kazakhstan Society of the Deaf, and the Kazakhstan Society of the Blind, as well as their enterprises, are exempt from paying any notarial fees.²¹⁶

Certain categories of NCOs enjoy decreased registration fees for registration with the state to acquire legal personality, or changes in their statutory documents, for themselves and for their

²¹¹ Article 357 (3) (1) of the Tax Code. As a matter of practice this tax benefit is available in case of grants provided by organizations included on the list determined by the Government or received directly from foreign governments.

²¹² Article 358 (3) of the Tax Code.

²¹³ Article 358 (1) of the Tax Code.

²¹⁴ Articles 155 and 156 of the Tax Code.

²¹⁵ Article 541 (17) of the Tax Code.

²¹⁶ Article 542 (10) of the Tax Code.

subdivisions (e.g., youth clubs and children's public associations, public associations of handicapped persons, ethnic cultural centers, and homeowners' cooperatives).²¹⁷

²¹⁷ Article 456 of the Tax Code.

KYRGYZSTAN

A. Income (Profits) Tax

1. Basic Notions

The Kyrgyz Republic regulates the tax on profits of legal entities (the “profits tax”) in Title VIII of the Tax Code (Tax Code).²¹⁸

The following are obliged to pay profits tax: domestic organizations; foreign organizations carrying out activities through a permanent institution in the Kyrgyz Republic; individual entrepreneurs; and tax agents paying income generated from a source in the Kyrgyz Republic to a foreign organization that is not connected with a permanent institution in the Kyrgyz Republic.

Income generated as a result of economic activities is taxed if it is: income of a domestic organization or individual entrepreneur from sources in Kyrgyzstan and/or abroad; or income of a foreign organization or non-resident individual from a source in the Kyrgyz Republic through a permanent institution in the Kyrgyz Republic.²¹⁹ Any non-commercial organization (NCO) carrying out activities that fall within the definition of economic activity is considered a taxpayer. The definition of economic activity is sufficiently broad so that most NCOs are considered taxpayers.

Profits are calculated as the positive difference between the gross annual income of the taxpayer and the deductions provided for by the Tax Code.²²⁰

2. Profits Tax Rate

The profits tax rate is 10 percent.²²¹

3. Wholly or Partially Exempt Organizations

Exemptions in the Tax Code are linked to both the type of organization and the type of income. There are two categories of organizations that are eligible for certain exemptions: NCOs and NCOs having charity status, known as a charitable organization.

An NCO, as defined by the Tax Code,²²² is an organization (1) registered in an organizational and legal form provided for under the legislation of the Kyrgyz Republic on noncommercial organizations and other legislation of the Kyrgyz Republic; and (2) that does not pursue generation of profits as the primary purpose of its activities and does not distribute profits among

²¹⁸ The Tax Code of the Republic of Kyrgyzstan as of October 17, 2008, (with subsequent amendments as of January 10, 2009).

²¹⁹ Articles 184 -185 of the Tax Code.

²²⁰ Article 186 of the Tax Code.

²²¹ Article 213 of the Tax Code.

²²² Article 153 (11) of the Tax Code.

its members, founders, or officers.²²³ NCOs enjoy exemptions on gratuitous income, as discussed below in A.4.

According to the Tax Code, a charitable organization is a non-commercial organization that meets the following characteristics:

- the organization is organized and carrying out charitable activity in compliance with the legislation of the Kyrgyz Republic on non-commercial organizations and charitable activity,²²⁴
- the organization does not conduct any activity involving production or sale of excised goods or the gambling industry; and
- the organization does not provide support to political parties or to candidates in election campaigns.²²⁵

Charitable activities are defined as “voluntary activities of individuals and (or) legal entities aimed at implementation of charitable purposes, as stipulated by the legislation on charitable activities,²²⁶ in the form of transferring assets to citizens and legal entities, rendering services and performing works on a gratuitous basis (without compensation or on privileged conditions), or in exchange for such payment as would not exceed costs incurred in connection with their sale.” Thus, charitable activities may include economic activities, so long as the activity does not result in profit.

The Tax Code does not require a charitable organization, as a condition of being recognized as such, to obtain a certificate from tax authorities confirming its rights to tax benefits.

The Tax Code does grant exemptions to NCOs for certain kinds of income. They are exempt from profits tax received on a gratuitous basis. (See A.4).

4. Taxation of Revenues Obtained on a Gratuitous Basis

Under the Tax Code, the following types of revenues of NCOs are exempt from profits tax:

- membership and entry fees;
- humanitarian aid and grants, so long as they are used for statutory purposes;²²⁷ and
- gratuitously received assets, so long as they are used for statutory purposes;

The Tax Code defines these terms, as follows:

²²³ The Law of the Kyrgyz Republic on Non-Commercial Organizations, as of October 15, 1999 (Law on NCOs).

²²⁴ Article 5 of the Law of the Republic of Kyrgyzstan on Philanthropy and Charitable Activity, as of November 6, 1999 (Charity Law) defines "charitable organization" as a “non-state (non-commercial) organization, established for implementation of purposes stipulated by this law through conduct of charitable activity in the interests of society in general or certain categories of persons.”

²²⁵ Article 153 (2) of the Tax Code.

²²⁶ The Tax Code does not contain its own list of charitable purposes; it refers to those established by the legislation on charitable activities, which is reasonably broad and includes most traditional public benefit purposes.

²²⁷ Article 189 (3) of the Tax Code.

“Membership fees” are defined as:

“assets contributed by a member of a non-commercial organization in the amount designated and the manner stipulated in the founding documents of the organization, provided that such transfer is not conditioned upon reciprocal provision of services to such member free of charge or below cost.”²²⁸

“Entry fees” are defined as:

“assets contributed to membership-based non-commercial organizations by a person upon joining the organization in the amount designated and under the procedure stipulated in the founding documents of the organization, provided that such transfer is not conditioned upon reciprocal provision of services to such member free of charge or below cost.”²²⁹

“Humanitarian aid” is defined as:

“assets gratuitously provided by states and organizations to the Government of the Kyrgyz Republic, body of local self-governance, state, and non-commercial organizations, as well as to needy individuals in the form of food, equipment, appliances, clothing, medical supplies and pharmaceuticals, and other property aimed at the improvement of the conditions of life among the population, or [directed towards] the prevention or elimination of emergency situations of a military, ecological, or industrial nature, subject to the subsequent consumption and (or) gratuitous distribution of those assets.”²³⁰

“Grants” are defined as:

“assets gratuitously provided by states and international, foreign, and domestic organizations to the Government of the Kyrgyz Republic, bodies of local self-governance, state, and non-commercial organizations, not participating in the support of political parties or candidates of election campaigns.”²³¹

These definitions help to create a consistent understanding and implementation of the Tax Code provisions where these terms are being used.

5. Taxation of Income from Entrepreneurial Activities

²²⁸ Article 153 (29) of the Tax Code.

²²⁹ Article 153 (4) of the Tax Code. These definitions of “entry” and “membership fees” were apparently considered necessary in light of addressing problems with tax enforcement under the old tax code. The tax authorities have indicated that entrepreneurs have improperly attempted to use membership fees to hide commercial relationships between customers and an NCO; an “NCO” provided services in exchange for a “membership fee” or “entry fee,” even though no actual membership relationship existed.

²³⁰ Article 153 (7) of the Tax Code.

²³¹ Article 153 (6) of the Tax Code.

NCOs are generally allowed to engage in entrepreneurial activities, with some limitations. Engaging in entrepreneurial activities will not result in the loss of tax privileges applicable to revenue obtained on a gratuitous basis.

More specifically, the Civil Code of the Kyrgyz Republic allows NCOs to engage in entrepreneurial activities “to the extent it is necessary for implementation of their statutory goals.”²³² The Law on NCOs, in substance, allows NCOs to conduct entrepreneurial activities (as well as any other type of activities) “if they do not contradict the aims and purposes of the organization, determined by the charter, programmatic documents, and other acts.”²³³ Finally, the Charity Law provides that “a charitable organization may engage in entrepreneurial activity only to attain purposes for which it is established, and corresponding to such purposes.”²³⁴

The Civil Code defines entrepreneurial activity as “independent activity, conducted at a [person’s] own risk, aimed at derivation of profits.”²³⁵ The Tax Code does not define the term entrepreneurial activity, but instead refers to the Civil Code in defining the given term and also provides that “‘economic activity’ is an entrepreneurial activity and other activity.”²³⁶ While this definition is unenlightening, there are, in any case, no profits tax exemptions on income from entrepreneurial or economic activities for NCOs.

6. Availability of Exemptions for Passive (Investment) Income

Certain types of income traditionally viewed as “passive” are subject to exemptions or special treatment, regardless of whether the taxpayer organization is commercial or non-commercial:

- Dividends received from participation in domestic organizations by taxpayers are not subject to profits tax.²³⁷
- Interest payable to taxpayers is taxed at its source, through a withholding of 10 percent, and is not included in taxable income upon submission of documentary evidence of withholding.²³⁸

7. Regulation of Expenditures

The Tax Code contains no provisions limiting an NCO’s expenditures. The Charity Law, on the other hand, imposes certain rules regarding the use of funds by charitable organizations, similar to those in other laws based on the Newly Independent States Model Charity Law.²³⁹ The limitations on expenditures imposed by the law are summarized in the table below:

²³² Article 85 of the Civil Code as of May 8, 1996, last amended on October 17, 2008.

²³³ Article 12 of the Law on NCOs. The Article further establishes that limitations on specific types of activities of NCOs may only be established by law.

²³⁴ Article 7 of the Charity Law.

²³⁵ Article 1(4) of the Civil Code.

²³⁶ Article 21 of the Tax Code. Other activities include: (1) activity carried out in compliance with labor legislation of the Kyrgyz Republic; (2) investment of money in banks; (3) acquisition, transfer or sale of securities; and (4) other activity that is not considered entrepreneurial activity.

²³⁷ Article 189 (4) of the Tax Code.

²³⁸ Article 221(1) and (3) of the Tax Code.

²³⁹ Model Provisions for Charity Laws were drafted by the Parliamentary Assembly of the Newly Independent States in 1997.

<p><u>Constraint 1:</u> “A charitable organization may not use for remuneration of <i>administration and management</i> staff more than 2 percent of all funds expended during the financial year.”²⁴⁰</p>	<p><u>Exception 1:</u> “This restriction does not apply to remuneration for persons <i>participating in implementation of charitable programs.</i>”²⁴¹</p>
<p><u>Constraint 2:</u> - “no less than 98 percent of a charitable donation in monetary form shall be used for charitable purposes within a year from receipt of this donation” - “a charitable donation in kind shall be used for charitable purposes within a year from receipt.”²⁴²</p>	<p><u>Exception 2:</u> Both requirements apply “unless the donor or the <i>charitable program</i> specifies otherwise.”²⁴³</p>
<p><u>Constraint 3:</u> “no less than 98 percent of the income derived during the <i>financial year</i> from non-operational economic activities, and from commercial entities established by the charitable organization and from entrepreneurial activity permitted by law shall be used to <i>finance charitable programs.</i>”²⁴⁴</p>	<p><u>Exception 3:</u> -“<i>financing charitable programs</i>” includes “expenses on materials and technical, organizational, or other means [to ensure implementation of such programs], on remuneration of persons participating in charitable programs, or other expenses associated with the implementation of charitable programs;”²⁴⁵ - in the course of implementation of <i>long-term</i>²⁴⁶ charitable programs, the funds obtained shall be used within the time established by such programs.”</p>

The Charity Law includes a much lower ceiling for staff compensation (just 2 percent of overall expenditures) and a much higher level of mandatory disbursement (98 percent as opposed to the usual 80 percent), in comparison with the NIS Model Charity Law and other legislative acts modeled after it. However, in exactly the same way as in the Model Law, consequences of

²⁴⁰ Article 9 (3) of the Charity Law.

²⁴¹ *Id.* "Charitable program" is defined in Article 10(1) of the Charity Law as the “complex of measures, approved by the highest governing body of a charitable organization and aimed at solving particular tasks, conforming to statutory purposes of this organization.” “Charitable programs,” pursuant to Article 10(2), must in addition:

- include estimates of expected revenues and planned expenses (including remuneration for persons participating in implementation of a charitable program; and
- establish stages and time tables for its implementation.

²⁴² Article 9 (4) of the Charity Law.

²⁴³ *Id.*

²⁴⁴ Article 10 (3) of the Charity Law. Note that the rule, which refers to the financial year in which the income was *derived*, does not specify when such income must be *spent*.

²⁴⁵ Article 10 (3) of the Charity Law. This formulation appears to allow an organization to link to charitable programs even remotely related expenses.

²⁴⁶ The law does not define this term.

limitations are mitigated by the exceptions for spending with the framework of charitable programs or pursuant to arrangements with donors, as shown in the table above.

8. Deduction of Charitable Contributions

The Tax Code provides incentives for charitable donations by legal entities and individual entrepreneurs in the form of deductions. The new Tax Code raised the limits on deductibility of contributions from 5 to 10 percent of taxable income. The relevant provisions of the Tax Code are as follows:

“Gratuitously transferred assets, including money and property (at its balance sheet value) to charitable organizations, as well as to organizations of culture and sports, regardless of the form of ownership in the course of the tax year, in an amount not exceeding 10 percent of the taxable income of the taxpayer, provided that those assets are not used to the benefit of the taxpayer that transfers them, shall be deducted from gross annual income.”²⁴⁷

However, the Tax Code does not provide any incentives for citizens, who are not registered as individual entrepreneurs, to make charitable donations.

B. VAT

1. Basic Notions

Value Added Tax (VAT) is regulated by Chapter IX of the Tax Code.

An individual entrepreneur or legal entity carrying out economic activity must register as a VAT payer if over a period of 12 successive months, or over a period of less than 12 successive months, total turnover of taxable supplies of goods, works, and services on the territory of the Kyrgyz Republic exceeds the registration threshold of 4,000,000 soms²⁴⁸ (approximately 100,000 USD).²⁴⁹

Taxable supplies and imports are subject to VAT.²⁵⁰ “Taxable supplies” are taxable supplies of goods, works, and services.²⁵¹ A “taxable import” is an import of goods into the customs territory of the Kyrgyz Republic, except for import of VAT-exempt goods.²⁵²

2. VAT Rates

²⁴⁷ Article 208 of the Tax Code.

²⁴⁸ Article 229(1) of the Tax Code.

²⁴⁹ The Kyrgyz National Bank-approved exchange rate for one US dollar is 40.0338 Kyrgyz soms, as of January 17, 2009.

²⁵⁰ Article 231 (1) of the Tax Code.

²⁵¹ Article 224 (2) of the Tax Code.

²⁵² Article 224 (1) of the Tax Code.

The VAT rate is 12 percent.²⁵³ Export of works and services are considered as VAT-exempt supplies.²⁵⁴ There is a zero rate available for exports of certain goods,²⁵⁵ and for supplies connected with international transportation.²⁵⁶

3. Registration

An individual entrepreneur or legal entity carrying out economic activity must register as VAT payer if over a period of 12 successive months, or over a period of less than 12 successive months, total turnover of taxable supplies of goods, works, and services on the territory of the Kyrgyz Republic exceeds the registration threshold of 4,000,000 soms (approximately 100,000 USD). Registration is due within a month of the expiration of the period during which the total turnover of taxable supplies exceeds the VAT registration threshold and takes effect on the first day of the second month following the submission of the registration application.²⁵⁷

A person (individual entrepreneur or legal entity) not required to register as a VAT payer may do so voluntarily (1) if the person is carrying out the supplying of goods, works, and services, other than VAT-exempt supplies; or (2) if, prior to the supply, the person estimates that this supply will be taxable.²⁵⁸

4. Exemption for Supplies for Specific Categories of Organizations

Article 252 of the Tax Code (“Supplies Provided by NCOs”) provides for an exemption from VAT for several categories of goods, works, and services when provided by certain types of taxpayers. Specifically, Article 252 provides as follows:

“Supplies provided by NCOs for payment that does not exceed the cost of such supplies are exempt from VAT, if they are:

- 1) supplies of goods, works, and services provided as a social welfare and for protection of children or indigent citizens of advanced age;
- 2) in the sphere of education, medicine, science, culture, and sports.”

Article 252 thus exempts certain socially beneficial supplies from VAT, upon the condition that such goods and services are supplied at or below cost, and so long as the supplier is an NCO.

Article 251 of the Tax Code contains a special provision devoted to supplies by charitable organizations: “supplies of services by charitable organizations for charitable purposes in compliance with the legislation of the Kyrgyz Republic on philanthropy and charitable activity shall be VAT-exempt.”

5. Exemption for Specific Categories of Goods and Services

²⁵³ Article 227 (1) of the Tax Code.

²⁵⁴ Article 260 of the Tax Code.

²⁵⁵ Except for export of gold alloys and refined gold. Article 261 of the Tax Code.

²⁵⁶ Article 262- 263 of the Tax Code.

²⁵⁷ Article 229 (3) of the Tax Code.

²⁵⁸ Article 229(4) of the Tax Code.

The following supplies that may be of interest to NCOs²⁵⁹ are exempt from VAT:

- supply of land, residential buildings, or premises, with certain exceptions;²⁶⁰
- supply of prosthetic and orthopedic products, specialized goods for disabled persons, according to a list determined by the Government, including their repair, as well as pharmaceuticals;²⁶¹
- financial services enumerated by the Tax Code;²⁶²
- insurance services;²⁶³ and
- services concerned with payment of pensions.²⁶⁴

The import of the following goods of interest to the NCO community is exempt from VAT:²⁶⁵

- goods provided for rendering assistance when addressing consequences of natural disasters and armed conflicts;²⁶⁶
- goods imported as humanitarian assistance, grants under the procedure established by the Government of the Kyrgyz Republic;²⁶⁷
- pharmaceuticals;²⁶⁸
- educational materials, school accessories, and scientific publications;²⁶⁹
- baby food;²⁷⁰ and
- specialized goods for disabled persons.²⁷¹

The last three categories of imports are VAT-exempt according to a list determined by the Government of the Kyrgyz Republic.²⁷²

6. VAT Rebate Procedure

²⁵⁹ Other exempt supplies also include supply of gold, transportation services, public utilities, privatization of state property, etc.

²⁶⁰ Article 238 of the Tax Code. This exemption does not apply to renting out hotel-type premises or various recreation facilities. The supply of land, including its lease, is considered exempted supply, except for cases of supplying it for sale points, and for parking purposes.

²⁶¹ Article 242 of the Tax Code.

²⁶² Article 243 of the Tax Code.

²⁶³ Article 244 of the Tax Code.

²⁶⁴ Article 245 of the Tax Code.

²⁶⁵ Article 257 of the Tax Code. Other exempt imports include securities, blanks of passports and other identification cards, goods, exempt from VAT in the framework of customs regimes determined by the customs legislation of the Kyrgyz Republic, goods intended for official use by diplomatic establishments and for personal use by diplomats, excise stamps, natural gas, etc.

²⁶⁶ Article 257 (1) (7) of the Tax Code.

²⁶⁷ Article 257 (1)(8) of the Tax Code.

²⁶⁸ Article 257 (1) (12) of the Tax Code.

²⁶⁹ Article 257 (1) (3) of the Tax Code.

²⁷⁰ Article 257 (1) (10) of the Tax Code.

²⁷¹ Article 257 (1) (2) of the Tax Code.

²⁷² Article 257 (2) of the Tax Code.

Normally, excess VAT paid will not be reimbursed to the taxpayer; instead, it is either applied in the subsequent reporting period, or may be applied towards payment of fines and tax sanctions or other taxes.²⁷³ A rebate is only available to taxable persons who regularly provide zero-rated supplies and who regularly incur taxes that may be offset in excess of taxes they owe. Such persons are entitled to reimbursement within 60 calendar days from the day of submission of a VAT rebate application with all necessary documents to the tax authorities.²⁷⁴

C. Property, Real Estate, and Land Tax

1. Applicable Taxes

Property tax²⁷⁵ was introduced in Kyrgyzstan with the adoption of the Tax Code effective January 1, 2009. It is considered a local tax and includes a tax on: real estate improvements, including residential and nonresidential (commercial) premises, garages, and other buildings and construction; and, means of transportation.²⁷⁶ This tax must be distinguished from the land tax, which applies only to the portion of land without improvements. Under the new property tax, the value of any real property improvement is taxed at differential rates, depending on the year of construction, type of building materials from which the immovable property is built (bricks, concrete etc.), and the location of the property within the country and municipality (if applicable).

If the property is used for entrepreneurial purposes, the rate is 1 percent, and if the property is not used for entrepreneurial purposes, the rate is 0.35 percent. Regarding means of transportation, the rate depends on the type of transportation, year of manufacture, term of exploitation, and engine capacity.²⁷⁷

Land tax applies to land users regardless of the ownership form.²⁷⁸ Land tax includes a tax on agricultural lands and lands of human settlement, industry, transportation, communication, defense, nature preservation, health-improvement, recreation, and forest resources, etc.²⁷⁹ Rates depend on place of location and the classification for usage of lands.

2. Tax Benefits

The Tax Code provides property tax exemptions for the following categories of properties potentially applicable to NCOs:²⁸⁰

²⁷³ Articles 278 and 279 of the Tax Code.

²⁷⁴ Article 280 of the Tax Code.

²⁷⁵ On March 6, 2009, the Parliament of the Kyrgyz Republic approved an introduction of a moratorium on property tax from March 1, 2009 till January 1, 2010, in order to develop a new mechanism of enforcement of this tax.

²⁷⁶ Article 324 of the Tax Code.

²⁷⁷ Article 328 of the Tax Code.

²⁷⁸ Article 334 of the Tax Code.

²⁷⁹ Article 335 of the Tax Code.

²⁸⁰ Article 330 of the Tax Code.

- properties of diplomatic representative offices, consular institutions of foreign states, and representative offices of international organizations, in compliance with international treaties of the Kyrgyz Republic;
- properties of the first group (residential premises, not used for entrepreneurial activity), the taxable value of which does not exceed 5000 estimate indicators.²⁸¹
- properties of associations of disabled persons of the first and second groups, as well as Kyrgyz organizations of blind and deaf people, where disabled persons, blind and deaf people, compose not less than 50 percent of the total employed and their salaries compose the sum not less than 50 percent of the total fund of labor remuneration. The list of these enterprises shall be determined by the Government of the Kyrgyz Republic.

Article 343 of the Tax Code exempts from the land tax, *inter alia*, land of organizations of disabled persons, war participants, and similar categories of persons and lands of the community of blind and deaf people.

D. Other Taxes

The sales tax rate varies, depending on whether the sale of goods, works, and services is subject to VAT and VAT-exempt or not. The other criterion for determination of sales tax rate is whether it is for trading activity or not. For the sale of goods, works, and services, which is subject to VAT and VAT-exempt, the rate is 1.5 percent on trading activity and 2.5 percent on any other activity. If the sale of goods, works, and services is not subject to VAT and is not VAT-exempt, the sales tax rate is 2.5 percent on trading activity and 3.5 percent on any other activity, respectively.²⁸²

Sale of goods, accomplishment of works, and rendering of services by NCOs are exempt from VAT, conditioned that the payment does not exceed the cost, and if it is:

1. for social welfare and the protection of children or indigent citizens of advanced age;
2. in the sphere of education, medicine, science, culture, and sports.²⁸³

Charitable organizations are fully exempt from sales tax on any activity, including entrepreneurial activity.²⁸⁴

²⁸¹ Starting January 1, 2006, estimate indicator equals 100 Kyrgyz soms (approximately 2.50 USD), according to the Act of the Parliament as of June 15, 2006.

²⁸² Article 319 of the Tax Code.

²⁸³ Article 315 (2) of the Tax Code.

²⁸⁴ Article 315 (1) (4) of the Tax Code.

MOLDOVA

A. Income (Profits) Tax

1. Basic Notions

The Tax Code²⁸⁵ (Tax Code) of the Republic of Moldova provides for an income tax, which is assessed on taxpayers who must declare their income from all sources.²⁸⁶ Article 13 of the Tax Code defines “taxpayer” (for the purposes of income tax) as those legal and natural persons who receive income from any source in the Republic of Moldova.²⁸⁷ Residents of the Republic of Moldova receiving income from sources outside the Republic are also considered taxpayers.²⁸⁸

Taxable income is the amount representing gross income less any deductions and exemptions to which a taxpayer is entitled.²⁸⁹

2. Profits Tax Rates

Profits taxes for juridical persons has been cancelled: the tax rate for legal entities is zero percent.²⁹⁰ The profit tax rate of a profit-earning legal entity established by an NCO is likewise 0 percent.

In 2007, by amendment to the Law on Associations,²⁹¹ Parliament prohibited NCOs (other than associations of the handicapped, blind, etc.), from undertaking auxiliary or side activities, as further explained in sections A3 and A5.

3. Wholly or Partially Exempt Organizations

Article 52 of the Tax Code exempts NCOs from income tax, subject to certain conditions.²⁹²

The Tax Code defines an NCO as a “legal entity that does not seek income as the purpose of its activity and does not use any part of its property or income for the benefit of its members, founders, or any private person.”²⁹³ According to Article 52 (1), the following may be treated as NCOs and are exempt from income tax:

²⁸⁵ The Tax Code of the Republic of Moldova as of April 24, 1997 (with amendments as of June 15, 2008).

²⁸⁶ Article 13 (2) of the Tax Code.

²⁸⁷ A partnership, as defined in Article 5(9) of the Tax Code, is an exception to this rule.

²⁸⁸ Article 13 (1) of the Tax Code.

²⁸⁹ Article 14 of the Tax Code. Deductions and immunities are enumerated in Articles 33 to 36 of the Tax Code.

²⁹⁰ Article 15 of the Tax Code.

²⁹¹ Article 26 of the Law of the Republic of Moldova on Association as of May 17, 1996 (with amendments as of September 7, 2007).

²⁹² The Tax Code distinguishes between private NCOs and public institutions that may do similar work. While the private NCOs are exempt under Article 52, public institutions are exempt under Article 51 (“Public authorities and public institutions, exempt from tax”). Under this provision, public authorities and public institutions financed by the state budget, the budgets of territorial subdivisions, and/or the state social security budget are exempt from income tax.

²⁹³ Article 52 of the Tax Code.

- institutions of healthcare, education, science, and culture;
- associations of the blind, deaf, and handicapped; enterprises established to carry out the statutory purposes of such associations; associations of veterans and other public associations, foundations, and charitable organizations engaging solely in the following:
 - provision of material aid and free services to the handicapped, sick, shut-ins, orphans or children who have otherwise lost parental care, families with many children, the unemployed, and victims of war, natural disasters, ecological catastrophes, and epidemics;
 - activities concerned with the protection of human rights, education, and the acquisition and dissemination of knowledge; provision of healthcare and social assistance to the general public; culture, the arts, and amateur sports; consequences of natural disasters and environmental protection; and other activities that benefit the public, in accordance with legislation on public associations and foundations;
- professional unions, religious organizations, public savings and loans associations, associations of employers, entrepreneurs and farmers, as well as other associations organized to establish favorable conditions for the fulfillment and protection of industrial, scientific/technical, social, and other common interests of economic actors;
- colleges and associations of advocates; and unions, associations, and chambers of notaries;
- political parties and other public political organizations.²⁹⁴

Moldovan law allows NCOs to choose from two procedures in order to be formally recognized as a tax-exempted organization. NCOs qualifying under paragraph (b) above must obtain a state certificate from the Certification Commission at the Ministry of Justice in order to secure the tax exemption.²⁹⁵ The procedure for obtaining a public benefit certificate, stipulated by the Law on Associations and the Law on Foundations, requires that an application be supported by documentation specifying the organization’s activities and sources of revenue, as well as an assurance that the organization does not participate in election campaigns of candidates for public office. Once a Certification Commission adopts a positive decision on granting a public benefit certificate to an NCO, it advises the tax authorities on the adopted decision.²⁹⁶

In addition, NCOs are recognized as charities if they are registered by the Ministry of Justice according to the Law on Charity and Sponsorship.²⁹⁷ According to this law, upon formation, NCOs are required to be incorporated as charitable organizations. (This contrasts with the certification of existing NCOs under the alternative procedure.) Charitable organizations must satisfy several requirements in the Law on Charity and Sponsorship. A “charitable organization” is an organization established to pursue the charitable purposes listed in the law through

²⁹⁴ Article 52(1) of the Tax Code.

²⁹⁵ Article 52(2)(6) of the Tax Code. They may obtain a 6-month temporary exemption from state tax authorities while the application for a public benefit certificate is pending.

²⁹⁶ *Id.* Commentators in Moldova have observed that in practice, non-certified public associations and foundations (including those identifying themselves as charities) enjoy exemption for income from their statutory activity as long as both content of the charter and actual activity of the organization comply with provisions of Article 52 (2).

²⁹⁷ The Law on Charity and Sponsorship as of October 31, 2002.

charitable activities.²⁹⁸ Government bodies may not be founders or co-founders of charitable organizations. While formally in force, the Law on Charity and Sponsorship has not been implemented.

Other NCOs obtain their tax exemption upon approval of a tax-exemption application by the local tax authorities.²⁹⁹ Commentators in Moldova have observed that in practice, non-certified public associations and foundations (including those identifying themselves as charities) enjoy exemption for income from their statutory activity as long as both the content of the charter and the actual activity of the organization comply with the provisions of Article 52 (2). Certification (or registration) as a charity is required, however, for purposes of donations; only donations to certified organizations are deductible for donors.

An NCO will be exempt from income tax only if it complies with the following requirements:³⁰⁰

- a) it must be registered or established in accordance with the appropriate legislation, and its charter, by-laws, or other documentation must identify particular non-commercial activities, its status as a non-commercial organization, and contain a prohibition of distribution of income or property to any members of the organizations, founders, or other private persons, including in the course of liquidation of the non-commercial organization;³⁰¹
- b) it must allocate all of its income from the activities listed in the charter, by-laws, or other documentation to the attainment of those purposes stipulated in the charter, by-laws, or other documentation;
- c) it must not use any part of its property or income to benefit any member, founder, or other private person affiliated with the organization;
- d) it must not support any political party, election coalition, or any candidate for public office, nor use any part of its income or property for the financing of such political organizations or candidates.³⁰²

²⁹⁸ Article 7 of the Law on Charity and Sponsorship.

²⁹⁹ The application must include the NCO's certificate of state registration along with the organization's charter, by-laws, or other documentation demonstrating compliance with the requirements of Article 52. Tax authorities must adopt a decision on granting the tax-exempt status to the NCO within 30 days following submission of the application. Article 52(2)(5). An NCO has a right to apply for public benefit organization (PBO) status immediately after registration to local tax inspectorate. Approval is conditioned by obligation of NCO to receive PBO status in the Ministry of Justice in a 6 month period. If an NCO does not get PBO status, it will be treated as a for-profit entity with respect to non-paid taxes.

³⁰⁰ Article 52(2) of the Tax Code.

³⁰¹ Exemption of the enterprises of associations of the blind, deaf, and handicapped does not require indication of non-commercial status in their charters, by-laws or other documents, or the prohibition of distribution of dividends to founders (Article 52 (3) of the Tax Code).

³⁰² These limitations do not apply to organizations referred to in Article 52 (1)(e) of the Tax Code – political parties and other public political organizations.

The income tax exemption for NCOs applies to the organization's entire income, except for income gained from any "side business," which is taxed under Article 53 of the Tax Code (see discussion of side business below in A5).

4. Taxation of Revenues Obtained on a Gratuitous Basis

Revenues obtained as gratuitous donations are exempt from income tax as per Article 52's broad exemption for NCOs, under condition that receipt of donations is provided for in the organization's charter. There is no precise definition of a grant in Moldovan legislation, but grants are generally treated as donations and exempt under Article 52 of the Tax Code. The same applies to membership fees, as long as their payment complies with the charter. An NCO must be certified as a charity in order to receive tax-exempt donations.³⁰³

5. Taxation of Income from Entrepreneurial Activities (Business)

The Tax Code defines "entrepreneurial activity" and "business" as "any activity conducted in accordance with legislation, except for work pursuant to labor contracts, and performed with the aim of receiving income or where income is gained as a result thereof regardless of the aim of the activity."³⁰⁴

Status legislation³⁰⁵ permits charities, associations and foundations to conduct entrepreneurial activities, so long as they are related to the organization's statutory purposes.

To pursue entrepreneurial or economic activity unrelated to statutory purposes, NCOs and charities must establish a separate enterprise. The income of such enterprises is taxed in accordance with Article 53 of the Tax Code ("Side Business") on general tax provisions.

Taxation of income from entrepreneurial activity depends upon whether that activity is related to the statutory purposes, in which case it is exempt, or considered "side-business," in which case it is taxed.³⁰⁶ Usually the tax authorities decide whether entrepreneurial activity of an NCO is related or unrelated using the list of activities from the Statutes.

Unrelated entrepreneurial activity (or "side business")³⁰⁷ is any entrepreneurial activity not provided for by the charter, by-laws, or other documents of an NCO, and/or an activity conducted in violation of the requirements set in Tax Code.³⁰⁸ Side business of Article 52 organizations is treated as a separate subject of taxation. The income from the "side business" is taxed at the general 0-percent rate.

6. Availability of Exemptions for Passive (Investment) Income

³⁰³ Article 36 of the Tax Code.

³⁰⁴ Article 5 (16) of the Tax Code.

³⁰⁵ The Law of Moldova on Charity and Sponsorship as of October 31, 2002; the Law of Moldova on Public Associations as of May 17, 1996; the Law on Foundations as of July 30, 1999.

³⁰⁶ Article 52 of the Tax Code.

³⁰⁷ Article 52 of the Tax Code.

³⁰⁸ The Tax Code does not include a criterion of *regularity* in assessing tax on income from side businesses, but rather imposes profits tax regardless of the incidental or permanent nature of the activity.

An entity paying out dividends must, however, withhold at the source a 15-percent tax of the amount of dividends due, which is then credited towards the general income tax obligation of the paying entity.³⁰⁹

There are no explicit exemptions for passive income.³¹⁰ Whether passive income of an NCO is taxable should depend upon whether it is considered entrepreneurial activity related to a statutory purpose (exempt), or “side-business” (not exempt). In practice, tax authorities tend to view passive income of NCOs as income from a “side business” and thus taxable.

7. Regulation of Expenditures

The legislation governing public benefit foundations contains a rule requiring that “administrative expenses shall not exceed 20 percent of all expenditures.”³¹¹ There are no limitations on accumulation.

The Law on Charity and Sponsorship includes a similar rule, according to which no more than 20 percent of funds “collected for charitable purposes” may be used for “carrying out its activities and compensation for administrative expenses.”³¹² The law also states that any positive difference between gross income and expenses may not be distributed among the participants (members) of an organization.³¹³

Additionally, no less than 80 percent of a charitable donation in monetary form, or the entirety of any non-monetary donation, must be used for charitable purposes within the year of receipt, with some exceptions.³¹⁴ Another restriction states that no less than 80 percent of the revenues obtained during the financial year from “non-operational activities,” from any business subsidiaries established by a charitable organization, and from “entrepreneurial activity permitted by law” may be spent financing charitable programs.³¹⁵

There are no tax consequences associated with failure to meet the requirements under the Charity Law.

³⁰⁹ Article 80 (1) of the Tax Code.

³¹⁰ The Tax Code defines two types of passive income. Under Article 12(4) of the Tax Code, “investment income” is income derived from capital investments and investments in financial assets, provided that participation of the taxpayer in such activities is not regular, permanent, and significant. “Financial income,” pursuant to Article 12(5), is income received as royalties, annuities, rent, or the result of favorable currency exchange, gratuitously transferred assets, and other income received as a result of financial activities, provided that participation of the taxpayer in such activities is not regular, permanent, and significant.

³¹¹ Article 23 of the Law on Foundations.

³¹² Article 20 (3) of the Law on Charity and Sponsorship.

³¹³ Article 7 of the Law on Charity and Sponsorship.

³¹⁴ Article 20 (4) of the Law on Charity and Sponsorship.

³¹⁵ The law does not specify any period of time within which such funds must be spent. The rule additionally exempts “long-term” charitable programs from the 80 percent rule on expenditure of funds. Article 18 (3) of the Law on Charity and Sponsorship.

8. Deduction of Charitable Contributions

Resident taxpayers³¹⁶ are permitted to deduct “donations for charitable purposes made during the year, not in excess of 10 percent of the amount of [their] taxable income,” provided that such donations are substantiated in the manner established by the Government.³¹⁷

The Tax Code defines “donations for charitable purposes” as such “donations or gifts” to benefit:

- public authorities and public institutions financed by the state budget, the budgets of territorial subdivisions, and/or the state budget for the social security insurance;
- NCOs formally recognized as public benefit organizations (see A(3)); and
- religious organizations.

B. VAT

1. Basic Notions

Article 94 of the Tax Code defines VAT taxpayers as:

- a) legal and natural persons, registered or subject to registration in accordance with the requirements of Article 112, i.e., persons that supply goods and/or services with a total value exceeding 300,000 Leu (MDL) (approx. 29,700 USD) in any consecutive 12-month period;³¹⁸
- b) legal and natural persons importing goods, except for natural persons importing goods for personal use or consumption, provided that their value does not exceed the limit specified in the law on budget for the respective year;
- c) legal and natural persons importing services that are considered taxable supplies.

The following supplies are taxable pursuant to Article 95 of the Tax Code:

- a) the supply of goods and services by taxpayers of VAT resulting from their entrepreneurial activity in the Republic of Moldova; and
- b) the import into the Republic of Moldova of goods and services, except for goods imported by natural persons for personal use or consumption, provided that their value does not exceed the limit specified in the law on budget for the respective year.³¹⁹

³¹⁶ Article 36 (1) of the Tax Code.

³¹⁷ Article 36 (3) of the Tax Code, the Regulation of the Government No. 489 as of May 4, 1998, establishes documentary requirements.

³¹⁸ Article 112(1) of the Tax Code.

³¹⁹ Article 95 of the Tax Code.

2. VAT Rates

The following VAT rates apply in the Republic of Moldova, per Article 96(1) of the Tax Code:

- standard rate: 20 percent of taxable value of imported goods and services and of supplies effected in the territory;
- decreased rates: a 5-percent rate applies to natural and liquefied gas imported into and supplied in the Republic of Moldova. An 8-percent rate applies to certain bread and dairy products as well as to permitted drugs;³²⁰
- zero rate: applies to exported goods and services; all types of international passenger and cargo transportation; and goods and services supplied for international organizations within the framework of agreements to which the Republic of Moldova is a party. The list of such international organizations is contained in the law on the budget for the respective year.³²¹

3. Registration

The general rule is that taxpayers engaging in entrepreneurial activity must register as VAT-payers if they supply goods and/or services with a total value exceeding 300,000 Leu (MDL) (approx. 29,700 USD) in any consecutive 12-month period.³²²

Taxpayers must officially notify the State Tax Service of a taxable value exceeding 300,000 MDL by filling out a special form and registering no later than one month after the expiration of the term within which the excess occurred. Taxpayers are deemed registered for the purposes of VAT beginning with the first day of the month following the month within which they were required to submit the official notification.

Those planning to begin entrepreneurial activity and intending to provide VAT-taxable supplies may register before beginning operation.³²³ Offset of the VAT paid for acquired goods and services is allowed only after taxable supplies have been provided for no less than six consecutive months after registration. The person is deemed registered as a VAT-payer from the day that the registration form is submitted to the State tax service. If the State Tax Service finds that the registered taxpayer was not entitled to or not obliged to register, the registration is deemed void.

Persons not required to register may register voluntarily as VAT-payers if they provide supplies to other taxpayers on a regular basis (for no less than one year) and have no tax arrears.³²⁴ Upon registration, such persons subject themselves to all the requirements of the Tax Code relating to

³²⁰ Except for children's food, exempt from VAT by virtue of Article 103 (1)(2) of the Tax Code.

³²¹ Other zero-rated supplies include electric and heat energy, hot water; goods intended for official use by diplomatic and other such missions in the Republic of Moldova, as well as for personal use or consumption by members of the diplomatic, administrative, and technical staffs of these missions and their family members residing therein -- on a reciprocal basis, in the manner established by the Government; construction works on building of residential houses conducted on conditions of mortgage.

³²² Article 112 (1) of the Tax Code.

³²³ Article 112 (4) of the Tax Code.

³²⁴ Article 112 (3) of the Tax Code.

VAT. Registration of such taxpayers is valid for no less than two years or until the taxpayer ceases entrepreneurial activity, whichever comes first. Such persons are deemed registered as VAT-payers from the day of submission of the registration form to the State Tax Service.

4. Exemption for Specific Categories of Organizations

There are no blanket exemptions for NCOs or any subtypes thereof. Certain organizations though have been designated by statute as exempt from VAT payment on certain goods and services. Under Article 103 of the Tax Code, the following are exempt (numbering of Article 103 retained below):

- the Association of the Blind, Association of the Deaf, and Association of the Handicapped are VAT-exempt with regards to materials imported for industrial purposes;³²⁵
- goods and services of educational institutions allocated for educational purposes; personnel training services and services related to the improvement of professional skills; services for training children and teenagers; services provided by nurseries and kindergartens connected with the care of children in preschool establishments;³²⁶
- goods provided by school cafeterias and cafeterias of educational facilities and hospitals; goods sold in the canteens of other institutions, including social and cultural organizations financed in full or in part from the state budget; food services for the poor and/or elderly provided by charitable organizations;³²⁷
- rituals and ceremonies conducted by religious organizations.³²⁸

5. Exemption for Specific Categories of Goods and Services

The following supplies and imports, which may be related to the non-commercial sector, are VAT-exempt:³²⁹

1. Import of goods and services which were manufactured by a taxpayer on the territory of Moldova;
2. Groceries and other goods for children in accordance with the list provided in the Law on Budget for the respective year;
3. Preschool facilities, clubs, health resorts, and other places of social or cultural as well as housing and communal purpose being transferred by public authorities to enterprises, institutions and organizations;
4. Services and goods by educational institutions as related to the educational process, under condition, that all revenues are re-invested into the educational activities;
5. Services and actions for which there is a state duty; licensing, registration, and patent fees; fees and duties levied in granting certain rights to legal and physical persons; legal fees; natural resource utilization fees; services rendered by the members of colleges of advocates;

³²⁵ Article 103(2)(7) of the Tax Code.

³²⁶ Article 103(1)(5) of the Tax Code.

³²⁷ Article 103(1)(11) of the Tax Code.

³²⁸ Article 103(1)(16) of the Tax Code.

³²⁹ References are to the numbering of Article 103 of the Tax Code.

6. Services related to care for the sick and elderly;
7. Medical services, except for cosmetic procedures and medical supplies; vouchers to health resorts, rehabilitation institutions, recreation institutions, touring and excursion vouchers; technical means for prophylactics of disability and rehabilitation of the disabled;
8. Specified financial services;
9. Scientific research as well as experimental and engineering work conducted at the account of the budget funds;
10. Certain veterinary, biological, and other agricultural products;³³⁰
11. Books and periodicals, except for those relating to advertising or of an erotic character, and services relating to the publishing of books and periodicals;
12. Capital assets being transferred to the statutory capital of an entity;
13. Some kinds of cars;
14. Goods and services, imported or purchased on the territory of the Republic of Moldova or of funds from loans and grants granted to the Moldovan Government, or provided by the government guarantees out of funds from loans of international finance institutions for specified projects, as well as from grants provided to budget subsidized institutions according to the list approved by the Government.

The following imported goods are exempt (if their importation complies with all conditions stipulated in applicable tax and customs legislation and regulations):

- goods for rendering assistance after natural disasters, armed conflicts, and other public emergencies;
- humanitarian assistance-related goods (designated as such by the Government);
- goods in transit via the territory of Moldova.³³¹

6. VAT Rebate Procedure

As a general rule, if the input VAT exceeds the output VAT, the difference shall be applied towards future VAT obligations (i.e., VAT is not reimbursed from the budget and not applied towards other tax obligations).³³²

In certain exceptional cases, reimbursement will be made within 45 days from the state budget to enterprises manufacturing certain bread and milk products (i.e., goods assessed at the lower 8 percent VAT)³³³ or zero-rate supplies.³³⁴

C. Property, Real Estate, and Land Tax

1. Applicable Real Estate Taxes

³³⁰ See the respective clause of Article 103 of the Tax Code for more detailed description of the products and substances falling within the scope of this exemption.

³³¹ Article 103(20) of the Tax Code.

³³² Article 101(2) of the Tax Code.

³³³ Article 101(3) of the Tax Code.

³³⁴ Article 101(5) of the Tax Code.

In the Republic of Moldova, real property tax is regulated by Chapter 6 of the Tax Code. This is a local tax based on the value of the real property.³³⁵ The tax base for real property is 50 percent of the property's assessed value. The maximum rate for real property tax is 0.5 percent of the taxable base. The specific tax rate, established on an annual basis by the representative body of the local public authorities, cannot be lower than 50 percent of the maximum rate.³³⁶ Real property tax is payable by the taxpayer in equal parts no later than June 15 and October 15 of the year.³³⁷

2. Tax Benefits

Article 283 of the Tax Code ("Exemption from Tax") exempts, *inter alia*, the following organizations from real property tax:

- public authorities and institutions financed from the budgets of all levels;
- associations of the blind, of the deaf, and of the handicapped, as well as enterprises established by those organizations for fulfillment of their statutory purposes;
- religious organizations, with regards to real property used to carry out religious ceremonies.³³⁸

No decreased rates are provided for by the Tax Code itself.

The following landowners and land users are exempt from the property tax with respect to land and land plots:³³⁹

- land used by nature parks, preserves, and botanical gardens;
- land used by science and research organizations, and institutions of agricultural and forestry focuses for scientific and educational purposes;
- land used by institutions of culture, art and cinematography, education, healthcare, sports and recreation as well as historic, natural and cultural monuments financed from the state budget or by professional unions.

D. Other Tax Issues

1. Other Taxes

Apart from the real property tax, the Tax Code provides for the following local taxes and duties:³⁴⁰

- duty on territory amelioration;

³³⁵ Article 276 of the Tax Code.

³³⁶ Article 280 of the Tax Code.

³³⁷ Article 282 of the Tax Code.

³³⁸ Article 283 of the Tax Code.

³³⁹ Article 283(3) of the Tax Code.

³⁴⁰ Article 289 of the Tax Code.

- duty on publicity sharing;
- levy on the right to conduct local auctions and lotteries;
- hotel tax;
- advertisement tax;
- tax for the right to use local symbols;
- tax for placement of trading facilities;
- market dues;
- duty on temporary residence;
- parking fees;
- health resort fees;
- tax on dog owners;
- fee for the right to provide services on passenger transportation;
- sanitation taxes.

2. Other Exemptions and Benefits

The Law on Public Associations vests the local authorities the right to exempt public-benefit public associations from local taxes, though such practice is uncommon.

RUSSIA

A. Income (Profits) Tax

1. Basic Notions

The main rules governing profits tax, as well as payment of taxes to the Russian Federation, are provided for in Part Two of the Tax Code of the Russian Federation³⁴¹ (hereinafter Tax Code). According to Chapter 25, “Organization Profits Tax,” of the Tax Code, registered non-commercial organizations (hereinafter NCOs) are recognized as taxpayers regardless of the scope of their activities.³⁴² Taxable profit equals the “income obtained [by the organization] subtracted by the amount of expenses incurred.”³⁴³

Income consists of sales revenue and extraordinary/passive revenues. Sales revenue is defined as revenue from sales of goods, work, services, and property rights.³⁴⁴ Extraordinary/passive revenue is revenue from investments, interest, rent, etc.³⁴⁵ Extraordinary/passive revenue also includes property or property rights obtained gratuitously (except for revenue excluded from the tax base according to Article 251 of the Tax Code).³⁴⁶

When determining the tax base for the purpose of profits tax, an organization subtracts the amount of expenses incurred in the course of production and sales of goods, works, and services, as well as the amount of extraordinary expenses, from the sales revenue and extraordinary/passive revenue,³⁴⁷ so long as the expenses were incurred in the course of implementing activities aimed at obtaining income (and excluding expenses indicated in Article 270 of the Tax Code).

2. Profits Tax Rate

The profits tax rate is 20 percent,³⁴⁸ of which 2 percent is allocated to the federal budget and 18 percent is allocated to the budgets of the constituent territories of the Russian Federation. The constituent territories of the Russian Federation³⁴⁹ have the right by legislative action to decrease

³⁴¹ The Tax Code of the Russian Federation was adopted on August 05, 2000, No. 117-FZ, (with subsequent amendments as of March 14, 2009).

³⁴² Articles 246 and 11 (1) of the Tax Code. The tax liability of foreign legal entities active in the Russian Federation is outside the current analysis. For the purposes of the current review, “NCO” refers only to legal entities registered as such within the territory of the Russian Federation.

³⁴³ Article 247 (1) of the Tax Code.

³⁴⁴ Articles 248 (1) and 249 of the Tax Code.

³⁴⁵ Article 250 of the Tax Code contains the open-ended list of 22 examples of “extraordinary” revenue including the following ones, which are traditionally considered to be passive income: 1) share participation in other organizations; 4) lease (sublease) of property; 5) from leasing intellectual property rights; 6) in the form of interest obtained from credit, loan agreements, bank accounts, bank deposits as well as on shares and other liability instruments.

³⁴⁶ Article 250 (8) of the Tax Code.

³⁴⁷ Article 265 of the Tax Code.

³⁴⁸ Article 284 (1) of the Tax Code.

³⁴⁹ According to Article 65 of the Constitution of the Russian Federation, there are 83 constituent territories within the Russian Federation.

the tax rate for certain categories of tax payers; however the tax rate may not be set below 13.5 percent.

According to Article 284(3)(2), income received in the form of dividends from Russian and foreign sources are generally taxed at the rate of 9 percent.³⁵⁰ Interest on government and municipal securities is usually taxed at 15 percent.³⁵¹

According to the Chapter 26(2) of the Tax Code, an organization, including an NCO, can utilize the simplified taxation system, subject to the conditions determined by the Tax Code.³⁵² Under the simplified taxation system, the organization pays a unified tax at the rate of 6 percent of the gross income, or 15 percent of the income, after subtracting the amount of incurred expenses and is free from certain other tax liabilities.³⁵³

3. Wholly or Partially Exempt Organizations

The Tax Code does not grant a tax exemption to NCOs for profits tax liability. Certain legal forms of NCOs – namely, public organizations of disabled people and religious organizations – may obtain special treatment in relation to determining their taxable base for the profits tax.

The status of charitable organizations is regulated by the Federal Law “On Charitable Activities and Charitable Organizations”³⁵⁴ (hereinafter the Law on Charity). The Tax Code does not provide for tax benefits for charitable organizations. There are no relevant procedures for determining charitable status of organizations at the federal level.

4. Taxation of Revenues Obtained on a Gratuitous Basis.

Tax-exempt income is set out in Article 251 of the Tax Code, and the list is exhaustive. An NCO must account for such income separately from taxable income.

The following types of revenue may be excluded when determining an NCO’s tax base, as listed in Article 251(1):³⁵⁵

- funds or other assets received in the form of gratuitous aid (assistance) in the manner determined by the Gratuitous Aid Law;³⁵⁶

³⁵⁰ Article 284 (3) of the Tax Code. Revenues which are taxed on the zero rate basis are listed in sub-paragraph 1, paragraph 1 of this Article.

³⁵¹ Article 284 (4) of the Tax Code.

³⁵² Article 346 (12) of the Tax Code.

³⁵³ According to Article 346 (11) (2) of the Tax Code, organizations that are taxed according to the simplified taxation system are exempt from liability for profits tax (except for tax due on profits as provided in paragraphs 3 and 4 of Article 284 of the Tax Code), corporate property tax, unified social tax, or VAT, except for import VAT.

³⁵⁴ Federal Law of the RF “On charitable activities and charitable organizations” of August 11, 1995.

³⁵⁵ Tax exemptions are selectively listed which are relevant for this review. References are given for the corresponding sub-paragraphs of Article 251 (1) of the Tax Code.

³⁵⁶ Federal Law of the Russian Federation “On gratuitous aid (assistance) of the Russian Federation about entering modifications and additions to several legislative acts of the Russian Federation concerning taxes and establishing tax benefits for payment into state extra-budgetary funds in connection with providing gratuitous aid (assistance) of the Russian Federation” of May 4, 1999 (Gratuitous Aid Law).

- assets received by a Russian organization on a gratuitous basis:³⁵⁷
 - from an organization, in the case where charter (share) capital (fund) of the receiving party consists of over 50 percent of the contribution (share) of the transferring organization;
 - from an organization in the case where charter (share) capital (fund) of the transferring party consists of over 50 percent of the contribution (share) of the receiving organization;
 - from an individual person, in the case where charter (share) capital (fund) of the receiving party consists of over 50 percent of the contribution (share) of this individual person;
- assets obtained by the taxpayer within the framework of special purpose financing, including grants (under the condition that income and expenses are separately accounted for),³⁵⁸
- property received on gratuitous basis by state and municipal educational establishments as well as by non-state educational institutions;
- property (including financial funds) and property rights received by a religious organizations in connection with performing religious rites and ceremonies and for sales of religious literature and items of religious use.

For the purposes of Chapter 25 of the Tax Code, “grant” is defined as: “[F]inancial means or other assets in cases where their transfer (receipt) qualifies as the following:

- grants are provided on a gratuitous and non-repayable basis:
 - by Russian individual persons and NCOs;
 - by foreign and international organizations that are in the list of such organizations approved by the Government of the Russian Federation;
- grants provided for implementation of specific programs in the spheres of education, art, culture, health care (HIV, drug addiction, pediatric oncology, including oncohematology, pediatric endocrinology, hepatitis and tuberculosis), environmental protection, defense of human and citizen's rights and freedoms provided for by the legislation of the Russian Federation, social services for the poor and socially disadvantaged categories of citizens, as well as for conducting specific scientific research;
- grants are provided under conditions determined by the grant-maker, with obligatory provision of reports about proper use of grant funds to the grant-maker.”

³⁵⁷ In this circumstance, the received assets are not considered as revenue for the purposes of the tax assessment only so long as within the term of one year from the day of receiving it, the given assets (except for cash assets) have not been transferred to a third party.

³⁵⁸ According to the Tax Code, “assets received by the taxpayer and used in accordance with their designation as determined by the sources of the special purpose financing are considered to be funds of the special purpose financing.” The Tax Code enumerates 13 types of such assets including grants. Among other funds of earmarked finances are also the funds received from the “Russian Foundation for Basic Research, Russian Foundation for Technical Development, Russian Scientific Foundation for Humanities [....]”

In addition to the above, Article 251(2) of the Tax Code relieves from taxation special-purpose financing.³⁵⁹ Article 251(2)(1) regards donations to be special-purpose financing, and they are recognized as such in compliance with the civil legislation of the Russian Federation. The giving of an object³⁶⁰ or a right for public benefit goals is recognized as a donation according to Article 582 of the Civil Code of the Russian Federation (hereinafter Civil Code).³⁶¹ Donations may be made to citizens, educational establishments, social protection institutions and other similar establishments, charitable, scientific and educational institutions, foundations, museums and other cultural institutions, public and religious organizations and other NCOs in compliance with the legislation.

Some legal forms of NCOs do not have the right to receive donations, including consumer cooperatives and associations of homeowners.

Property supplied on gratuitous basis for NCOs that do not have the right to obtain donations are recognized as property received on a gratuitous basis, the value of which, according to Article 250 (1) (8) of the Tax Code, will be counted towards extraordinary/passive revenue for the purpose of profits tax.

Additionally, the following types of revenue are tax-exempt:

- entrance fees, membership fees, share contributions;
- deductions towards reserves for renovation and repairs of common property which are made by homeowners' association members, housing cooperatives, gardening, lawn and garden, garage, housing construction cooperatives or other specialized consumer cooperatives, according to the procedure established by Article 324 of the Tax Code;
- property transferred to NCOs on the basis of wills;
- amounts of funding from the federal budget, budgets of constituent territories of the Russian Federation, local budgets, budgets of state extra-budgetary funds, assigned for performance of charter-based activities of NCO;
- funds and other property received for implementation of charitable activities;
- joint contribution of founders of non-state pension funds;
- properly used receipts from owners to entities created by them;
- funds provided for trade union organizations in compliance with collective agreements for social, cultural, and other events as provided for in their charter;
- property (including financial means) and (or) property rights, which are obtained by religious organizations for implementation of their charter-based activities;
- funds obtained by NCOs for establishing endowments implemented in compliance with the procedure determined by the Federal Law "On procedure of forming and using

³⁵⁹ Article 251 (2) deals with the revenues (except excisable goods) earmarked for support of NCOs and charter-based operations, which were provided free of charge by other organizations and (or) individual persons and put to good use by the indicated recipients.

³⁶⁰ Article 130 of the Civil Code describes object as movable property, including money and securities.

³⁶¹ Civil Code of the Russian Federation is adopted on October 21, 1994 (with subsequent amendments as of July 14, 2008).

endowment of NCOs;”³⁶²

- funds obtained by NCOs engaged in implementing trust management of the assets making up endowment, according to the Federal Law “On procedure of forming and using endowment of NCOs;”³⁶³
- funds obtained by NCOs of specialized endowment management organizations in compliance with the Federal Law, “On procedure of forming and using endowments of NCOs.”³⁶⁴

The list of revenues that may be excluded by NCOs for the purpose of profits tax may seem extensive. In practice, however, a typical NCO has quite limited budgets. Assets and other property received by an NCO for its statutory activities are not always sufficient.

5. Taxation of Income from Entrepreneurial Activities

The Civil Code defines “entrepreneurial activities” as “independent activities undertaken at one’s own risk aimed at systematic generation of profits from the use of property, sales of goods, implementation of works, or provision of services.”³⁶⁵

An NCO is permitted to engage in entrepreneurial activities under the condition that its charter-based activities remain the main activities. Entrepreneurial activities of NCOs should comply with two requirements: (1) these activities must help NCOs to achieve their statutory goals and increase the ability to perform statutory tasks; and, (2) the general sphere of such activities must correspond to the statutory goals of the NCO.

The Tax Code does not provide exemptions for revenues obtained by an NCO in the course of entrepreneurial activities, including that correspond to its charter-based goals. Profits that remain after payment of profits tax must be directed towards financing the NCO’s charter-based activities.

In addition, for certain organizations including public organizations of disabled persons, establishments where the only owner of property is a public organization of disabled persons, as well as for organizations employing disabled persons, there are further benefits provided in relation to profits tax.³⁶⁶ These organizations are entitled to deduct expenses for provision of social protection for disabled persons in addition to expenses directed towards support of statutory activities.³⁶⁷ In both cases, certain conditions and limitations are provided.³⁶⁸

³⁶² Article 251 (2)(13) of the Tax Code. The Federal Law “On procedure of forming and using endowment of NCOs” was adopted on December 30, 2006.

³⁶³ Article 251 (2)(14) of the Tax Code.

³⁶⁴ Article 251 (2)(15) of the Tax Code.

³⁶⁵ Article 2 of the Civil Code.

³⁶⁶ An organization employing disabled persons is an organization in which no less than 50 percent of employees are disabled persons and the share of expenses for remuneration for them is no less than 25 percent.

³⁶⁷ Article 264 (1) (38) of the Tax Code.

³⁶⁸ Article 264 (1) (39) of the Tax Code. “Expenses indicated in sub-paragraphs 38 and 39 of Articles 264 of the Tax Code may not be included with expenses related to production and/or sales of excisable goods, mineral raw material, mineral deposits and other goods in compliance with the list approved by the Government of the Russian Federation for representation of all-Russia public organizations of disabled persons, and with provision of intermediary services, related to sales of such goods, mineral raw materials and mineral deposits.”

According to Article 267.1 of the Tax Code, public organizations of disabled persons and organizations employing disabled persons may create a reserve fund directed towards future funding goals, ensuring social protection of disabled persons for a period of time not to exceed five years. The maximum amount of deductions towards the reserve must not exceed 30 percent of the taxable profit obtained in the current fiscal profit, calculated without taking into consideration the given reserve.

Special deductions are also in place for those organizations owned entirely by religious organizations. Such an organization may decrease its tax base by the amount transferred to the religious organization towards implementation of statutory activities. The organization may also receive profit obtained from sales of religious literature and objects of religious use.³⁶⁹

The civil legislation of the Russian Federation contains limitations for specific entrepreneurial activities undertaken by NCOs. NCOs do not have the right to implement the activities under the following contracts:

- factoring agreements;³⁷⁰
- franchising agreements;³⁷¹
- public contracts.³⁷²

6. Taxation of passive (investment) income

Types of income traditionally considered passive or investment income (in the Tax Code referred to as “extraordinary” revenues) are taxed as profits. There are no tax exemptions for extraordinary/passive revenue obtained by the NCOs in the Tax Code.

7. Regulation of Expenditures

The Law on Charity imposes rules regarding the use of funds by charitable organizations. During one fiscal year, charitable organizations may use for salaries of the administrative and managerial staff no more than 20 percent of financial (i.e., cash) assets “collected for charitable goals” (this limitation does not cover remuneration of the labor of persons who participate in implementation of charitable programs).³⁷³ Moreover, no less than 80 percent of a charitable contribution in monetary form, or fully in case of charitable contribution in-kind, must be used for charitable goals within a year from the moment of its receipt, with a number of exceptions.³⁷⁴ Finally, no less than 80 percent of the revenues obtained during the financial year from “non-realization activities” (passive income), or from any commercial organization (whose charter

³⁶⁹ Article 264 (39) (1) of the Tax Code.

³⁷⁰ Article 825 of the Civil Code.

³⁷¹ Article 1027 of the Civil Code.

³⁷² Article 426 of the Civil Code.

³⁷³ Article 16 (3), Law on Charity.

³⁷⁴ Article 16 (4), Law on Charity.

capital is composed in its entirety of the contribution from a charitable organization), and from “entrepreneurial activity permitted by law” shall be spent financing charitable programs.³⁷⁵

8. Deduction of Charitable Contributions

The Tax Code does not provide tax exemptions for organizations making donations to NCOs for implementation of their charter-based activities. However, certain organizations and institutions created by an NCO may deduct as expenses the amounts transferred to the NCOs which created them for implementation of charter-based activities. This procedure is provided for institutions where the sole owner of assets is a public organization of disabled persons, and for organizations where charter (share) capital is fully made up from a contribution of a religious organization. Issues pertaining to decreasing of taxation base by such organizations are discussed in Section A5.

An individual taxpayer may take a social tax deduction, which is limited by the amount of incurred expenses, and cannot exceed more than 25 percent of income obtained in a given fiscal period.³⁷⁶ Social tax deductions are applicable to

- the amount of income transferred by the tax-payer for charitable purposes in the form of monetary aid to scientific, cultural, health care, education, and social protection organizations which are partially or fully financed by the state funds of relevant budgets, as well as to physical education and sports organizations, to educational schools for the purposes of physical education of citizens, and support of sports teams;
- as well as in the amount of donations paid by the taxpayer to religious organizations for implementation of charter-based activities.

B. Value Added Tax

1. Basic notions

Taxpayers of Value Added Tax (hereinafter “VAT”) are organizations, individual entrepreneurs, and persons importing goods within the territory of the Russian Federation.³⁷⁷ NCOs are recognized as taxpayers.

The following transactions, *inter alia*, are recognized as taxable events:

- sales of goods (works, services) within the territory of the Russian Federation as well as transfers of property rights;
- import of goods within the customs territory of the Russian Federation.³⁷⁸

³⁷⁵ Article 17(3) of the Law on Charity. The law does not specify any period of time within which such funds must be spent.

³⁷⁶ Article 219 (1) (1) of the Tax Code.

³⁷⁷ Article 143 of the Tax Code.

³⁷⁸ Article 146 (1) (1) and (4).

The gratuitous transfer of property rights, performance of works, and provision of services are considered as sales of goods (works, services) and are subject to VAT.³⁷⁹

2. VAT rates

Tax rates are set at 0 percent, 10 percent, and 18 percent.³⁸⁰

The zero tax rate is used:

- for taxation of export of goods, works, and services, including international transportation, space activities, extraction of precious metals; and
- in relation to goods, works, and services for official and private use of by diplomatic representations.³⁸¹

The 10-percent tax rate applies to sales within the territory of the Russian Federation as well as in cases of importing, within the territory of the Russian Federation, the following goods:³⁸²

- food products listed in the Tax Code;
- goods for children, listed in the Tax Code;
- periodic publications excluding periodic publications of advertising or erotic character; books related to education, science and culture, excluding books of advertising and erotic character; and
- medical goods of domestic and foreign origin.

Sales of goods, works, and services that are not taxed at the 0-percent or 10-percent rates are subject to the 18-percent rate.

3. Registration

There is no general registration threshold for VAT and no separate procedure for registration as a VAT payer. NCOs, as other legal entities, are obliged to register with the tax authorities within 10 days of obtaining state registration as a legal entity.

4. Exemptions for Turnover and Import for Specific Categories of Organizations

According to Article 145(1), “organizations and individual entrepreneurs are exempt from calculation and payment of tax if, in the previous three calendar months, the amount of revenue from sales of goods (works, services) by these organizations and individual entrepreneurs does not exceed a total of two million rubles.”³⁸³ In addition, NCOs that elect the simplified taxation

³⁷⁹ Ibid.

³⁸⁰ Article 164 of the Tax Code.

³⁸¹ Article 164 (1) of the Tax Code.

³⁸² Article 164 (2). Goods are listed which may be relevant for NCOs.

³⁸³ This exemption is not provided for suppliers of excise goods, selling these goods in the course of three consecutive calendar months. Article 145 of the Tax Code provides additional rules and limitations.

system need not pay VAT, except when importing goods to the territory of the Russian Federation.

5. Exemptions for Specific Categories of Goods and Services

Certain exemptions of potential interest to NCOs are listed below. Sales of goods, works, and services within the territory of the Russian Federation that are not taxable are listed in paragraph 2, Article 149 of the Tax Code, including:³⁸⁴

- medical goods of domestic and foreign production, according to the list approved by the Government of the Russian Federation;
- medical services, provided by medical organizations and/or establishments with the exception of cosmetic, as well as veterinary and sanitary and epidemiological services, apart from such services when they are state-funded;
- nursing care services for sick, disabled, and elderly persons, provided by the state and municipal services of social protection;
- services for keeping children in kindergarten classes and in clubs including sports and art studios;
- food products produced by specific types of food catering organizations including educational establishments;
- funeral services, works (services), or making tombstones and decoration of graves, as well as sales of funeral-related items;³⁸⁵
- services in the sphere of education, provision of job training process (within the framework of main and additional education, indicated in the license) organized by non-commercial educational establishments or educational process with the exception of consulting services, as well as services of renting out premises;
- renovation, restoration, conservation, and repair works implemented in the course of restoration of historical and cultural monuments protected by the state, as well as religious buildings and structures which are in use by religious organizations;
- goods (works, services), with the exception of excisable goods, sold (performed, provided) within the framework of providing gratuitous aid (assistance) in compliance with the Federal Law on Gratuitous Aid;
- services in the sphere of art and culture (according to the list in the Tax Code) provided by cultural and art establishments (according to the definition of the Tax Code).

On the basis of paragraph 3 of the Article 149 of the Tax Code, the following are tax-exempt:³⁸⁶

- sales of items of religious use and religious literature and provision of services of religious character;
- sales of goods, works, and services with some exceptions, produced and sold by authorized public organizations of disabled persons,³⁸⁷ by their establishments and organizations, and a number of others, related to such types of organizations;

³⁸⁴ References are given to the relevant sub-paragraphs of Article 149 (2) of the Tax Code.

³⁸⁵ According to the List approved by the Government of the Russian Federation.

³⁸⁶ References are given to the relevant sub-paragraphs of Article 149 (3) of the Tax Code.

³⁸⁷ An authorized public organization of disabled persons is an organization whose members include at least 80 percent disabled persons and their lawful representatives.

- sales of products of folk art crafts of recognized artistic value (with the exception of excisable goods);
- transfer of goods (performance of works, provision of services) free of charge within the framework of charitable activities;
- sales of entrance tickets, the form of which is approved according to the established procedure as strict reporting forms, by organizations of physical education and sports, for sports and entertainment events held by them; provided services of renting sports facilities for holding the above mentioned events;
- implementation of scientific, research, experimental and developmental activities using the support of budgetary and non-budgetary funds, in case of observing specific conditions;
- services of resort, healthcare and improvement organizations, and children's recreational organizations including summer camps for children situated within the territory of the Russian Federation, which are documented in the form of vouchers that are strict reporting forms.

It is important to take into consideration that taxpayers may decline the tax exemptions listed in paragraph 3 of the Article 149 of the Tax Code. In order to do so the taxpayer must file the relevant application with the tax authorities.³⁸⁸

Article 150(1) of the Tax Code exempts from VAT a number of goods imported within the territory of the Russian Federation, namely:

- goods (with the exception of the excisable goods), imported as gratuitous aid (assistance) to the Russian Federation;³⁸⁹
- artistic values that are transferred as gifts to establishments, which are defined by the legislation of the Russian Federation as particularly valuable facilities of cultural and national heritage of peoples of the Russian Federation;
- all types of publications received by state and municipal libraries and museums in the frame work of international book exchange, as well as cinematographic works, imported by specialized state organizations with the purpose of implementing international non-commercial exchanges.

Improper use of goods that are exempt from VAT while importing within the territory of the Russian Federation may result in the obligation to pay VAT and an imposition of sanctions.

C. Property Tax (including real estate)

1. Applicable taxes

Applicable taxes include corporate property tax and land tax.

³⁸⁸ Article 149 (5) of the Tax Code.

³⁸⁹ These goods must be presented in compliance with the procedure determined in the Law on Gratuitous Aid.

Corporate property tax is established by Chapter 30 “Corporate property tax” of the Tax Code, and by legislation of the constituent territories of the Russian Federation. Tax rates are determined by the legislation of the constituent territory of the Russian Federation. However the tax rates determined by them cannot exceed the rate determined by the Tax Code. The tax rate is set by the Tax Code at 2.2 percent.³⁹⁰

Land tax is established, enacted, and terminated in compliance with the Tax Code and regulatory acts of the representational bodies of municipal entities (in the federal cities, Moscow and Saint-Petersburg, by the laws of these constituent entities of the Russian Federation). The tax rate is established by Article 394 of the Tax Code at 0.3 percent for land plots classified as agricultural land and land occupied by housing and engineering infrastructure of housing or obtained (provided) for the purposing of housing construction. For other uses of land, the tax rate is 1.5 percent.

2. Tax Benefits

As a general rule, NCOs are not exempt from corporate property tax or land tax, according to the Tax Code. However, NCOs of specific legal forms have tax benefits determined by Articles 381 and 389 of the Tax Code.

Religious organizations and all-Russian public organizations of disabled persons have the tax benefit concerning the property used for implementation of charter-based activities. Tax benefits are also provided to organizations and institutions created by all-Russian public organizations of disabled persons, in relation to property used for the advancement of goals provided for in the Tax Code. This benefit is applicable to organizations among the members of which disabled persons and their lawful representatives amount to no less than 80 percent. Tax exemptions are also provided for organizations whose charter capital consists entirely of contributions of the above mentioned all-Russian public organizations of disabled persons, but only when the average number of disabled persons among the employees amounts to no less than 50 percent, and their share in the remuneration fund is no less than 25 percent.

Constituent territories of the Russian Federation may use the right provided by the Tax Code and determined by legislative action in order to obtain tax benefits for property tax for specific categories of tax-payers. For instance, according to Article 4 of the law of the city of Moscow of November 5, 2003, No. 64, “On tax on property of organizations,” the following are tax exempt: housing cooperatives, associations of homeowners, and public organizations of disabled persons, in relation to property used for implementation of statutory activities.

Organizations in which the only property owners are the above-indicated all-Russian public organizations of disabled persons are exempt from taxation in relation to land plots used by them for attaining educational, cultural, healthcare, physical education, sports, scientific, informational, and other goals of social protection and rehabilitation of disabled persons as well as for provision of legal and other aid to disabled persons, disabled children and their parents.

³⁹⁰ Article 380 (1) (2) of the Tax Code.

Religious organizations are tax-exempt with regard to land they own, so long as the buildings and structures are used for religious and charitable purposes.

Tax exemptions apply to the folk art and craft trades, in relation to land situated in the areas of traditional practice of folk art and craft trades and which is used for production and sales of products of art and craft sales.

D. Miscellaneous

1. Other tax exemptions and benefits

A regional tax, the transport tax,³⁹¹ is enacted by the constituent territories of the Russian Federation. The Tax Code does not provide for any tax exemptions for NCOs.

The Tax Code determines the tax rate, which may be increased or decreased by the constituent territories of the Russian Federation, however, without exceeding by a factor of five the standard rate established by the Tax Code. The constituent territories of the Russian Federation may also establish tax exemptions with regard to payment of this tax, and to establish related procedure, terms, conditions of payment and forms of reporting.

³⁹¹ Chapter 28 of the Tax Code

TAJKISTAN

A. Income (Profits) Tax

1. Basic definitions

The tax code of the Republic of Tajikistan³⁹² (“Tax Code”) regulates profits tax in Tajikistan. Taxpayers are understood as legal entities that are residents or “foreign” enterprises.³⁹³ “Enterprises” are defined as “organizations carrying out entrepreneurial activities or established for that purpose.” The notion of “entrepreneurial activities”³⁹⁴ embraces all types of activities resulting in a generation of profits other than exempt revenues. Taxable profit is the “positive difference between gross income of the taxpayer and deductions provided for by Chapter 19 [of the Tax Code].”³⁹⁵

2. Tax Rates

The base profits tax rate is 25 percent.³⁹⁶ A tax rate of 4 percent of gross revenues applies to small enterprises if their turnover does not exceed 600,000 Tajik Somoni, and will be taxed under a simplified taxation system.³⁹⁷ Bank interest is taxed at the rate of 12 percent and is withheld at the source of payment.³⁹⁸

3. Wholly or Partially Exempt Organizations

The Tax Code grants some tax exemptions to several categories of organizations. Exempt from the profits tax are:³⁹⁹

- enterprises owned by associations of the disabled, blind and deaf (under certain conditions),⁴⁰⁰
- religious, charitable, budgetary, international, and inter-governmental non-commercial organizations, except for incomes derived by them from entrepreneurial activities;
- gratuitous transfers, gratuitous property, membership fees, donations and grants to the non-commercial organizations.

³⁹² The Tax Code of Republic of Tajikistan, as adopted on November 3, 2004 (with subsequent amendments as of March 20, 2008).

³⁹³ Article 20 of the Tax Code defines that the resident enterprise is “the enterprise, which place of establishment or management is the Republic Tajikistan;” other enterprises are considered as “non-residents.”

³⁹⁴ Article 15 of the Tax Code.

³⁹⁵ Article 143 (1) of the Tax Code.

³⁹⁶ Article 144 of the Tax Code.

³⁹⁷ Articles 302-305 of the Tax Code.

³⁹⁸ Article 163 of the Tax Code.

³⁹⁹ Article 145 of the Tax Code. This provision also exempts the National Bank of Tajikistan and its institutions, and the dividends issued by one resident enterprise to another resident enterprise.

⁴⁰⁰ Two conditions must be met for this exemption to be effective: (i) the disabled, blind, or deaf shall constitute no less than 50 percent of the employees; and (ii) no less than 50 percent of the overall annual remuneration (including such in kind) shall be allocated to such persons.

In the Tax Code, “non-commercial organizations” (NCOs) are understood as bodies of legislative, executive, and judicial authority, public and (or) religious organizations (association), funds, establishments, associations (unions), the interstate, intergovernmental, and other organizations which are carrying out non-entrepreneurial activity, *i.e.* the legal entities which are not pursuing the purposes of extraction of profits, the incomes or compensation and not distributing the received profits, income, or compensation between participants (founders).⁴⁰¹

A “charitable organization” is defined in Article 26 of the Tax Code as an organization that:

- is established to carry out “charitable activity” (defined within the Tax Code to include a broad spectrum of public-benefit activities);⁴⁰²
- is registered as charitable under the procedure established by the Republic of Tajikistan;
- complies with certain limitations on political activities and distribution of benefits.⁴⁰³

The notions of “charitable organization” and “charitable activity” are further defined in the Law on Charitable Activity.⁴⁰⁴ An organization is not deemed charitable (regardless of its legal and organizational status or name), if it participates, directly or indirectly, in election campaigns at any level of any political party, public organization (movement) or any individual candidate; and/or if the earnings or assets of the organization benefit any person, except for benefits arising from conduct of charitable activities and reasonable payments for property or services.⁴⁰⁵

4. Taxation of Revenues Obtained on a Gratuitous Basis

Article 145 of the Tax Code exempts from the profits tax gratuitous transfers, property, membership fees, and donations received by NCOs. The notion of “grant” is defined in Article 34(6) of the Tax Code and also in the Law on Charitable Activity as “property (including monetary) which is transferred gratuitously to natural persons and legal entities for the performance of a specified program or project.”⁴⁰⁶

5. Taxation of Income from Entrepreneurial Activities

Under the civil legislation and tax legislation, there is no prohibition for NCOs to engage in entrepreneurial activities; they may do so “to the extent it is necessary for their statutory purposes.”⁴⁰⁷ Neither the Tax Code nor implementing regulations contain any provisions that condition application of tax benefits for gratuitously obtained income of NCOs upon abstaining from entrepreneurial activities or compliance with the abovementioned limitation imposed by the civil legislation.

⁴⁰¹ Article 24(1) of Tax Code

⁴⁰² Article 17 of the Tax Code.

⁴⁰³ Article 26 (2) of the Tax Code.

⁴⁰⁴ The Law on Charitable Activity of the Republic of Tajikistan as of April 22, 2003.

⁴⁰⁵ Article 26 of the Tax Code.

⁴⁰⁶ Article 2 of the Law On Charitable Activity.

⁴⁰⁷ Article 50 (3) of the Civil Code of the Republic of Tajikistan as of November 12, 1999.

“Entrepreneurial activity” is defined under the Tax Code as “any activity aimed at obtaining profits, income or compensation, regardless of the results of such activity, unless otherwise provided by this Article.”⁴⁰⁸ Charitable activity is not considered entrepreneurial activity.⁴⁰⁹

The Tax Code distinguishes two types of economic activity, non-entrepreneurial (passive) and entrepreneurial (active), and sets out a test for determining whether economic activity is passive or active. In substance, obtaining interest from bank deposits, occasional trades in securities and renting out property are non-entrepreneurial activities. The offering of a person’s own goods, works, and services (even on an occasional basis), and resale or intermediation activity, are presumed entrepreneurial activity.⁴¹⁰

The Tax Code contains no exemptions for revenues earned from entrepreneurial activities or economic activities; however, religious and charitable organizations are exempt from profits taxes “except for profits derived by them from entrepreneurial activities.”⁴¹¹

6. Availability of Exemptions for Passive (Investment) Income

Tax on bank interest payable to resident enterprises is withheld at the source at the rate of 12 percent. The amounts of pre-tax interest are not included in the gross income of the recipient, and will not be the subject of further taxation.⁴¹² Dividends paid from one resident enterprise to another are not taxed.

7. Regulation of Expenditures

The Tax Code contains no regulations regarding expenditures of NCO funds. The Law on Public Associations⁴¹³ provides that revenues from entrepreneurial activities of public associations may not be distributed among their members or participants, and shall be used only to achieve the organization’s statutory purposes.⁴¹⁴ The Law On Charitable Activity⁴¹⁵ provides that assets of a charitable organization can be used for charitable purposes and for administration of a charitable organization. A grant can only be used for specified programs and in accordance with the requirements set by the donor who provided the grant. Funds spent on publishing the annual report of a charitable organization and for an independent audit of its activities are included into an 80 percent threshold: no less than 80 percent of the revenues of a charitable organization shall be spent on charitable programs.⁴¹⁶

⁴⁰⁸ Article 15 (1) of the Tax Code. Article 15 (3) of the Tax Code excludes from “economic activity” *inter alia*, charitable activity and religious activity.

⁴⁰⁹ Article 15 (3), 17 of the Tax Code.

⁴¹⁰ Article 15 of the Tax Code.

⁴¹¹ Article 145 of the Tax Code.

⁴¹² Article 162 of the Tax Code.

⁴¹³ The Law on Public Associations as of May 23, 2007.

⁴¹⁴ Article 24 of the Law on Public Associations.

⁴¹⁵ Article 19 of the Law on Charitable Activity.

⁴¹⁶ Article 20 of the Law on Charitable Activity. This Article defines the notion of a “charitable program.”

8. Deduction of Charitable Contributions

Individuals and legal entities may deduct up to 5 percent of their taxable income for gratuitous donations to “charitable organizations” and for the purpose of carrying out “charitable activities.”⁴¹⁷ The value of in-kind donations is calculated as the lesser of the market value of the property or the cost of its production.

B. VAT

1. Basic Notions

Under the Tax Code, “taxable operations” and “taxable imports” are VAT taxed.⁴¹⁸ Taxable operations include the supply of goods, the performance of work, and the provision of services (except for exempt supplies) carried out in the course of the independent entrepreneurial activities of a person, on the territory of the Republic of Tajikistan.⁴¹⁹

A “taxpayer” for VAT purposes is a legal or physical person that is obliged to be registered as a VAT payer according Article 202 of the Tax Code.⁴²⁰ A person is considered a VAT taxpayer from the moment of registration or from the beginning of the reporting period during which the obligation to apply for registration arose. In addition, those importing goods into the Republic of Tajikistan are also considered VAT payers.

2. VAT Rates

The base VAT rate is 20 percent.⁴²¹ No decreased rates apply. Zero-rating is available only in connection with exports, international transportation, and supply of gold to the National Bank of Tajikistan.⁴²²

3. Registration

The obligation to register arises when a person engaging in entrepreneurial activities has carried out, in the course of the preceding 12 calendar months, taxable operations in an amount exceeding 200,000 Tajik Somoni,⁴²³ or approximately 52,000 USD. The obligation arises within 30 days of the end of such period.

4. Exemption for Turnover and Import for Specific Categories of Organizations

Supplies of goods, works, and services by associations of the disabled, blind, and deaf, as well as enterprises owned by such associations, are exempt from VAT, provided that two conditions are met: the disabled, blind, and/or deaf constitute no less than 50 percent of their employees; and,

⁴¹⁷ Article 148 of the Tax Code.

⁴¹⁸ Article 206 (1) of the Tax Code.

⁴¹⁹ Article 206 (2) of the Tax Code.

⁴²⁰ Article 201 (1) of the Tax Code.

⁴²¹ Article 224 of the Tax Code.

⁴²² Chapter 30 of the Tax Code.

⁴²³ Article 202 (1) of the Tax Code.

no less than 50 percent of the overall remuneration (including in kind) is allocated to the disabled, blind, and deaf.⁴²⁴

Otherwise, VAT exemptions are based on the type of operation or import (see Section B(5) below), rather than the type of organization, although their application may be conditioned on certain characteristics of the organization.

5. Exemption for Specific Categories of Goods and Services

Among the operations and imports exempt from VAT are:⁴²⁵

- the sale, transfer, or lease of the real property, with certain limitations regarding hotels, resorts, and newly built housing;
- the provision of religious services by religious organizations;
- the provision of medical services;
- the provision of educational services for children and teenagers in clubs, workshops (including for fitness and sports), and art studios, as well as childcare services in preschool institutions; and
- import of goods, performance of works, and services as humanitarian assistance, as well as the import of goods to be transferred to the state bodies of the Republic of Tajikistan and public organizations for the purpose of eliminating consequences of natural calamities, accidents and catastrophes.

6. VAT Rebate Procedure

A taxpayer may apply for a reimbursement of VAT paid in excess of accrued VAT only if at least 70 percent of the taxable turnover during the reporting period was zero-rated. Reimbursement is to be made within 30 days of receipt of the application from the taxpayer.⁴²⁶ Otherwise the excess shall be applied towards the future VAT obligations for the subsequent six reporting periods, and any remaining excess shall be refunded within 30 days of the expiration of such six-month period.⁴²⁷

C. Real Estate and Land Tax

1. Applicable Taxes

Real Estate (immovable property) Tax

Owners of immovable property, including physical persons and legal entities, are subject to real estate tax. Rates of tax range from 10 to 50 multiple agrarian taxes, depending on the site,

⁴²⁴ Article 187 of the Tax Code.

⁴²⁵ Article 211 of the Tax Code

⁴²⁶ Article 236 (1) of the Tax Code.

⁴²⁷ Article 236 (2) of the Tax Code.

functional use, and other factors such as number of stories, degree of wear, type of building material, etc.⁴²⁸

Land Tax

Land tax is payable by the "users of land" as a fixed amount per hectare per year.⁴²⁹ Rates of tax are established depending on the quality and location, a cadastral assessment of the area, character of use, and ecological features.⁴³⁰

2. Exemptions

Real Estate Tax

Immovable property (real estate) owned by and appearing on the balance sheet of a budgetary organization⁴³¹ and directly used by the organization is not assessed. Also exempt from this tax are immovable property, including apartment housing and other buildings, structures, and constructions, in which live Heroes of Socialist Work, Heroes of Tajikistan, Heroes of Soviet Union, participants of Great World War II of 1941-1945, and persons equal to them.⁴³²

Land Tax

A number of types of land are exempt from land tax, such as reserves, national parks and arboreta, and botanical gardens; the grounds used by budgetary organizations; the grounds of organizations on which there are the buildings protected by the state as monuments of history, culture, and architecture, and those directly used for scientific and educational purposes, for testing of agricultural crops, scientific pilot farms, research establishments, and educational institutions involved with agricultural and forestry structure.⁴³³

⁴²⁸ Article 329 of the Tax Code.

⁴²⁹ Article 264 of the Tax Code.

⁴³⁰ Articles 265-267 of the Tax Code.

⁴³¹ Article 26 of Tax Code defines the budgetary organizations as noncommercial organizations which activity finances from the state budget resources.

⁴³² Article 328 of the Tax Code.

⁴³³ Article 271 of the Tax Code.

TURKMENISTAN

A. Income (Profits) Tax

1. Basic Notions

The taxation of profits of legal entities, including public associations, is regulated under Article 5 of the Tax Code of Turkmenistan.⁴³⁴

Under Article 147 of the Tax Code, payers of income (profits) tax are legal entities, residents, and non-residents of Turkmenistan, carrying out activities in the territory of Turkmenistan through resident representatives or receiving profits from sources in Turkmenistan. Entities exempt from income taxpayer status include the Central Bank of Turkmenistan and the National Red Crescent Society of Turkmenistan.

Also exempt from profits tax are investment pension funds; organizations engaging in the rehabilitation of disabled persons; educational institutions; enterprises of public organizations of disabled persons; religious organizations; agricultural enterprises; and international, intergovernmental, and interstate organizations, excluding the profits received from entrepreneurial activity.⁴³⁵

The tax exemption excludes profits received from selling goods subject to excise tax and certain types of profits specified in the Tax Code.⁴³⁶

Article 148 of the Tax Code establishes that profits, as well as particular types of income, received by taxpayers in a reported (fiscal) period are subject to profits tax. The gross income of a taxpayer includes income received from selling goods, provision of works and services, as well as passive (non-operational) income.⁴³⁷

The profits of legal entities are defined as the amount of gross income of a taxpayer reduced by the deductible amount stipulated by the Tax Code related to such income. Under Article 149 of the Tax Code, the following types of income are excluded from gross income:

- the means and other property received by a taxpayer in the context of targeted financing through budget allocations, state funds, grants, and other sources;
- targeted transfers to support NCOs in the conduct of their statutory activities, including membership dues, and charitable contributions, donations, and inheritable property;
- property (including works and services) received as a gift or on a gratuitous basis by government-financed and non-entrepreneurial legal entities, as well as by bodies of state power, and government bodies, local executive, and self-government bodies;

⁴³⁴ Tax Code of Turkmenistan (Tax Code) was adopted in 2004 (with subsequent amendments as of September 13, 2008).

⁴³⁵ Article 170 of the Tax Code.

⁴³⁶ Article 172 of the Tax Code.

⁴³⁷ Article 149 of the Tax Code.

- property (works and services) received in the context of projects and programs of international humanitarian, financial, and technical assistance provided to Turkmenistan by foreign states or international organizations.

Residents of Turkmenistan must pay the tax on profits (income) received within the territory of Turkmenistan and outside Turkmenistan. Non-residents of Turkmenistan must pay the tax on profits (income) received when carrying out activity in the territory of Turkmenistan via permanent representative entities in Turkmenistan and/or from other sources in Turkmenistan.

2. Profits Tax Rates

Under Article 172 of the Tax Code, the basic profits tax rate is:

- 8 percent for legal entities that are residents of Turkmenistan; or
- 20 percent for other legal entities.

Profits received as dividends and other income received from shared participation in other legal entities are taxed at a 15-percent rate applicable to both public associations and their enterprises.

Under Article 178 of the Tax Code, the amount of the profits (income) tax paid by legal entities that are residents of Turkmenistan outside Turkmenistan, in accordance with the tax legislation of the other States, shall be credited towards payment of the profits (income) tax in Turkmenistan.

3. Wholly or Partially Exempt Organizations and Income

Article 147 of the Tax Code exempts the Central Bank of Turkmenistan and the National Red Crescent Society of Turkmenistan from the profits tax. Article 170 of the Tax Code similarly exempts:

- investment pension funds;
- organizations engaging in the rehabilitation of disabled persons;
- educational institutions, enterprises of public organizations of disabled persons;
- religious organizations and agricultural enterprises; and
- international, intergovernmental, interstate organizations, excluding the income received from entrepreneurial activity.

Under Part 2 of Article 170 of the Tax Code, the following is deducted from taxable profit:

- profits received from educational activity;
- profits received by legal entities engaged in agricultural production from selling such products, excluding industrially processed products;
- profits received from providing services to tourists, including accommodations, catering, personal services and individual treatment, health-improving services, and entertainment activities (excluding the gambling industry) organized by subjects of national tourism

zones in the territory of these zones, within the first 15 years after the relevant facilities are put into operation;

- profits received by legal entities from selling chicken meat produced in-house and processed chicken products within the first three years of registration of the investment project; and
- profits received from selling prosthetic/orthopedic items and specialized means of transportation for disabled persons.

4. Taxation of Revenues Obtained on a Gratuitous Basis

Under Article 122 of the Tax Code, excise goods are tax-exempt if imported into the customs territory of Turkmenistan:

- as humanitarian aid to Turkmenistan, and within the framework of free foreign technical assistance provided under an intergovernmental agreement;
- for official use by foreign diplomatic or representative offices, international organizations, or for the personal use of diplomatic or administrative and technical staff of these offices or international organizations, including family members residing with them.

Under Article 149 of the Tax Code, the following types of income are excluded from gross income:

- the means and other property received by a taxpayer in the context of targeted financing through budget allocations, state funds, grants, and other sources;
- targeted transfers to support NCOs in the conduct of their statutory activities, including membership dues, and charitable contributions, donations, and inheritable property;
- property (including works and services) received as a gift or on a gratuitous basis by government-financed and non-entrepreneurial legal entities, as well as governmental organizations, local authorities, and self-government bodies;
- property (works and services) received in the context of projects and programs of international humanitarian, financial, and technical assistance provided to Turkmenistan by foreign states or international organizations.

5. Taxation of Income from Entrepreneurial (Business) Activities

Under Article 27 of the Law of Turkmenistan “On Public Associations,” public associations may carry out entrepreneurial activity as stipulated by their charters. The profits received by public associations from entrepreneurial activities are subject to the profits tax in accordance with the general rules established by the Tax Code.

6. Availability of Exemptions for Passive (Investment) Income

Profits received as dividends and other income received from shared participation in other legal entities are taxed at a 15-percent rate that can be applied to both public associations and their enterprises.⁴³⁸

Under Part 2 of Article 154 of the Tax Code, dividends and other income received from shared participation in other legal entities previously withheld at the source by the enterprises distributing such proceeds in Turkmenistan are deducted from taxable income.

7. Regulation of Expenditures

In accordance with the current legislation of Turkmenistan, profits earned by enterprises and organizations after paying tax allocations to the state budget may be spent without government intervention. The only restriction imposed on public associations is to spend profits in accordance with statutory activities.

8. Charitable Deductions

The current Tax Code makes no provisions for tax exemptions on charitable donations.

B. VAT

1. Basic Notions

Value Added Tax (VAT) taxpayers⁴³⁹ include legal and natural entities, excluding:

- the Central Bank of Turkmenistan;
- entities acting as contractors and subcontractors under the Law of Turkmenistan "On Hydrocarbon Resources;"
- private legal entities (excluding the entities acting under the Law of Turkmenistan "On Hydrocarbon Resources"); and
- individual entrepreneurs whose activity falls under the simplified system of taxation.

Taxable operations performed by taxpayers in the territory of Turkmenistan are subject to VAT,⁴⁴⁰ including:

- provision of goods, works, and services as well as transfer of the right of property;
- assembling and construction works for own use, excluding works exclusively assembling and/or installing acquired or produced equipment as well as repair of this equipment;
- repair of damages caused due to theft or spoilage by culpable persons, as well as insurance compensation; and

⁴³⁸ Article 172 of the Tax Code.

⁴³⁹ Article 95 of the Tax Code.

⁴⁴⁰ Article 96 of the Tax Code.

- goods, works, and services for personal use if the relevant costs are not included in profits (income) tax deductions for the purposes of calculating tax on profits (income) (including capital charges).

2. VAT Rates

Under Article 103 of the Tax Code, the VAT rate is:

- 0 (zero) percent – applied to the taxable operations under Article 105 of the Tax Code; or
- 15 percent – applied to the other kinds of taxable operations.

The zero rate is applied to the following taxable operations:⁴⁴¹

- export of goods produced in-house as well as acquired, excluding natural (associated) gas, oil, and related products (export of taxable goods is deemed to be transportation of goods outside Turkmenistan, with the fact of crossing the customs boundary of Turkmenistan confirmed in accordance with established procedure);
- international conveyance of passengers and goods of legal and natural entities (conveyance by means of transportation from a departure point to a destination located in the territory of Turkmenistan is not deemed to be international conveyance, even if the means of transportation has to leave the territory of Turkmenistan);
- transportation, loading, unloading, transfer of exported goods, services, or transit of foreign goods across the territory of Turkmenistan;
- fueling foreign ships and aircraft used for international conveyance of passengers and goods, and servicing such conveyance (including aero navigation, takeoff, and landing), and goods to be used by the crews and passengers during such conveyance;
- goods sold in duty-free shops;
- goods, works, and services acquired for official use by foreign diplomatic or equivalent representative offices and international organizations;
- goods, works, and services acquired at the expense of the Monetary Reserves of the Government of Turkmenistan;
- goods, works, and services for performing oil works for entities acting as contractors and subcontractors under the Law of Turkmenistan "On Hydrocarbon Resources," for the purpose of performing oil works. The zero rate is not applied if: these goods (including works and services) are used for performing work other than oil works; it cannot be clearly defined beforehand for what works these goods (or works and services) will be used for later; or these goods (or works and services) are intended for and will be used for performing oil works as well as other works, and their separation is deemed impossible. Such entities must notify their supplier or other co-signatory of the zero rate prior to granting (issuing) an invoice; and
- sales of in-house agricultural goods.

3. Registration

⁴⁴¹ Article 105 of the Tax Code.

Under Article 95 of the Tax Code, all legal and natural entities falling within the definition of taxpayer are VAT taxpayers.

4. Exemption for Turnover and Import for Specific Categories of Organizations

VAT exemptions include:⁴⁴²

- gratuitous transfer of:
 - fixed assets, intangible assets, and (or) other property of a legal entity to its assignee(s) when the legal entity is reorganized;
 - property by decision of governmental organizations, local authorities, or self-government bodies;
 - goods (or free-of-charge works or services) for non-entrepreneurial legal entities and governmental organizations, local authorities, and self-government bodies;
 - goods (or free-of-charge works or services) for charitable organizations;
 - goods (or free-of-charge works or services) provided as humanitarian aid and/or charity;
- goods, works and services provided within the framework of projects and programs of international humanitarian, financial, and technical assistance and credits (grants) provided to Turkmenistan by foreign states or international organizations and natural entities. The exemption can be applied to entities:
 - designated by foreign states, international organizations, or natural persons that provide these goods (or works and services);
 - designated as the recipients of such assistance and credits (grants);
 - acting as the suppliers of goods (or works and services) under agreements with the abovementioned designated providers or recipients of such assistance and credits (grants) paid from the abovementioned funds;
- goods, works, and services provided by non-entrepreneurial legal entities, bodies of state power, and government bodies, local executive, and self-government bodies, without the purpose of deriving profits.

5. Exemption for Specific Categories of Goods and Services

Under Article 106 of the Tax Code, VAT exemptions include the following taxable operations:

- care for sick, disabled, and elderly persons, and services for rehabilitation of disabled persons;
- educational services;
- goods produced by training-and-manufacturing enterprises of associations of blind and deaf persons, and other public organizations of disabled individuals;
- processed agricultural goods produced by agricultural enterprises, excluding butter and vegetable oil products; and
- services to tourists, including accommodations, catering, personal services and individual treatment and health-improving services, entertainment activities organized by the

⁴⁴² Article 96 of the Tax Code.

subjects of the national tourism zones in the territory of these zones within the first 15 years after the relevant facilities are put into operation.

Also exempt from VAT are goods (or works and services) (excluding those that are subject to excise tax) produced by:

- investment pension funds;
- enterprises of public organizations of disabled persons; and
- educational institutions.

Goods (or works and services) for the personal use of diplomatic or administrative and technical staff of diplomatic and equivalent representative offices and international organizations, including their family members residing with them, are subject to VAT that is reimbursed by Turkmenistan financial bodies.

6. VAT Rebate Procedure

The procedure for rebating VAT payments⁴⁴³ to those owed a refund is regulated with respect to goods, works, and services acquired for the personal use of diplomatic or administrative and technical staff of diplomatic and equivalent representative offices or international organizations, including their family members residing with them. The amount of tax is reimbursed by financial bodies, so long as receipts (cash memos) supporting the mentioned expenses are available in accordance with the procedure established by the Ministry of Finance of Turkmenistan.

C. Property, Real Estate, and Land Tax

1. Applicable Taxes

Property tax is regulated under Part 4 of the Tax Code. The property tax rate is 1 percent of the tax base of the tax period.⁴⁴⁴ Under Article 138 of the Tax Code, property taxpayers are legal entities that own property subject to the property tax.

Under this Article the properties subject to taxation are fixed assets and tangible circulating assets used in production activities of legal entities that are residents, and similar property owned by non-residents that is a portion of the property of a branch, representative office or permanent representation office. With regard to legal entities that are non-residents of Turkmenistan and do not carry out activities through a branch, representative office or permanent representative office, real assets located in the territory of Turkmenistan are subject to property taxation.

2. Tax Benefits

Entities exempt from property taxes include:⁴⁴⁵

⁴⁴³ Article 106 of the Tax Code.

⁴⁴⁴ Article 141 of the Tax Code.

⁴⁴⁵ Article 138 of the Tax Code.

- legal entities acting as contractors and subcontractors under the Law of Turkmenistan "On Hydrocarbon Resources." If these entities perform taxable operations other than oil works related to the property used for such operations, general terms apply;
- government-financed organizations;
- the Museum of National Values of Turkmenistan;
- the Central Bank of Turkmenistan;
- private legal entities (excluding entities carrying out activities under the Law of Turkmenistan "On Hydrocarbon Resources"); and
- bodies of state power and government bodies, local executive, and self-government bodies.

Property tax benefits are also regulated under Article 143 of the Tax Code. Under this Article, the following classes of organizations are exempt from paying property tax:

- investment pension funds;
- enterprises of public organizations of disabled persons;
- public associations;
- religious organizations;
- educational institutions;
- healthcare institutions and enterprises; and
- agricultural enterprises.

This Article also defines certain types of property as exempt from taxation, if used exclusively in the sphere of science, education, rehabilitation of disabled persons, and environmental protection; sport complexes, stadiums, and other sports facilities and constructions as well as sports equipment and goods; buildings and facilities of children's entertainment centers as well as other property used for entertaining children, including park amusements, game-playing machines, etc., as well as property used in the sphere of tourism, and some other uses.

Land, costs of land improvement projects not related to construction and reimbursed from capital investments, the government reserve property, and property conserved by decision of the Cabinet of Ministers of Turkmenistan are also tax exempt.

UKRAINE

A. Income (Profits) Tax

1. Basic Notions

The Law of the Republic of Ukraine on the Taxation of Profits of Enterprises⁴⁴⁶ (Profits Tax Law) regulates profits taxes in Ukraine. Taxpayers include resident legal entities “that conduct activities aimed at receiving profits in Ukraine and beyond its borders” as well as non-resident legal entities of any organizational form that receive income generated in Ukraine. Organizations that enjoy diplomatic status or other immunities according to the international treaties of Ukraine are not taxpayers.⁴⁴⁷

Taxable profit is calculated as adjusted gross income received during the accounting period, reduced by the taxpayer’s gross expenditures and depreciation costs.

2. Profits Tax Rates

The profits tax rate is a flat rate of 25 percent of taxable income since 2003.⁴⁴⁸

Taxpayers with annual gross revenues not exceeding one million Ukrainian Hrivnas (UAH) (approximately 130,000 USD) and an average annual number of employees below 50 may opt to pay an alternative tax of 6 percent of their gross annual revenues (for those electing to pay VAT) or 10 percent (for those electing not to pay VAT).⁴⁴⁹ In order to opt for the lower tax rates, taxpayers must file an application with local tax authorities in the previous quarter and receive an appropriate certificate.

3. Wholly or Partially Exempt Organizations and Types of Income

The Profits Tax Law establishes a complex system of tax exemptions for various categories of non-profit organizations and institutions (NPOs) based on the type of income received. The law distinguishes among the following categories of organizations, and provides exemptions as noted:⁴⁵⁰

⁴⁴⁶ The Law on Taxation of the Profits of Enterprises of Ukraine, as of December 28, 1994 (with subsequent amendments, as of June 24, 2008).

⁴⁴⁷ Articles 2(1)(1) and 2(1)(2) of the Profits Tax Law. Other taxpayers are: branches and offices of Ukrainian legal entities, unless their principals pay consolidated income tax (Article 2.1.3, *id.*); and permanent representative offices of nonresidents receiving income originating in Ukraine or acting as agents of such non-residents. This summary addresses only taxation of resident taxpayers.

⁴⁴⁸ Article 10(1) of the Profits Tax Law.

⁴⁴⁹ Article 2 of the Presidential Decree on the Simplification of Taxation, Accounting, and Reporting for Small Enterprises, as of June 28, 1999, No. 746.

⁴⁵⁰ Article 7(11)(1) of the Profits Tax Law.

- State and municipal bodies, and state- and municipally-owned organizations or institutions:

cash or in-kind assets; received gratuitously, passive incomes; state subsidies; and grants are exempt from profits tax.⁴⁵¹

- Charitable funds and charitable organizations established under the law for the purpose of carrying out charitable activities, including public organizations established for purposes of carrying out environmental, health care, amateur athletic, cultural, educational, or scientific activities; as well as artists' unions; political parties; organizations of disabled persons; accredited scientific and research institutions; certain institutions of higher education; and national parks (preserves):

cash or in-kind assets; received gratuitously, passive incomes; incomes from primary activities/services, state subsidies; and grants are exempt from profits tax.

- Pension funds and credit unions:

passive income and membership fees, provided for under special laws, state subsidies, and grants are exempt from profits tax.

- Other legal persons, not listed in paragraph (b), whose activities are not intended to generate profit (primarily organizations providing services only to their members, as well as cooperatives):

passive income, income from primary activities/services, state subsidies, and grants are exempt from profits tax.

- Unions and associations of legal persons established to serve the interests of their members, which are funded exclusively by membership fees and do not carry out any economic activities other than generating passive income:

passive income, membership fees, state subsidies, and grants are exempt from profits tax.

- Religious organizations:

donations in cash or in kind, passive income, and income from primary activities/services are exempt from profits tax.

- Building associations, condominiums, and other associations of housing co-owners:⁴⁵²

⁴⁵¹ The term “grant” as used here refers to budgetary subsidies or grants provided within the framework of humanitarian or technical assistance, pursuant to international agreements approved by the Parliament.

⁴⁵² This recently introduced paragraph “g” category covers only associations relating to housing and ownership, and not organizations of owners of other types of immovable property. For instance, garage or gardening cooperatives would fall under paragraph “d,” above, with different non-taxable sources of income.

passive income, income in cash or in kind received from pursuing their primary activities, and membership fees are exempt from profits tax.

- Professional associations, their unions, and trade unions:

donations in cash or in kind, passive income, employers' assignments designated for special purposes (culture, amateur sports, and health care), and membership fees are exempt from profits tax.

The Law on Charity and Charitable Organizations⁴⁵³ (the "Charity Law") identifies entities qualifying as charities⁴⁵⁴ but does not by itself confer any tax exemptions.⁴⁵⁵ As a result, in order for a charity to obtain tax exemptions, it must prove its compliance with requirements for tax-exempt status and must be officially included in the Registry of NPOs, administered by the tax authorities.

Most charities and public-benefit organizations would qualify as paragraph (b) organizations, receiving broad tax exemptions (donations, passive income, income from primary activities/services, state subsidies, and grants). However, certain organizations pursuing public activities, for example, those assisting the poor, the disabled, or orphans, are not explicitly included into this category.⁴⁵⁶ In practice, such organizations are often entered into the Registry of NPOs only if they do not render any for-profit services and comply with the other requirements of the law.

Only the organizations listed above are eligible to be registered in the Registry of NPOs and receive relevant exemptions. Tax authorities will normally check the charter documents of an applicant organization to make sure they comply with the requirements of the Profits Tax Law.⁴⁵⁷ Specifically, such organizations (except organizations specified in sections "a" and "c" above) must comply with the "non-distribution" requirement imposed by the Profits Tax Law prohibiting distribution of profits or assets to the organization's founders or members, or use of such profits/assets for the benefit of any founder, member or officer (except for wages and payments to social funds).⁴⁵⁸

⁴⁵³ The Law on Charity and Charitable Organizations of Ukraine, as of September 16, 1997.

⁴⁵⁴ Under Article 1 of the Charity Law, charitable organizations are non-governmental organizations (NGOs), the primary objective of which is carrying out charitable activity in the public interest or in the interest of certain categories of individuals. Charitable activities are defined as voluntary altruistic activities performed by charitable organizations that do not envision profit-making.

⁴⁵⁵ For this reason, many organizations carrying out public benefit activities are not registered as charitable. Although Article 20 of the Charity Law purports to provide tax exemption to certain categories of charities, this provision is not enforceable without proper registration by the charity as an NPO under the Profits Tax Law.

⁴⁵⁶ Paragraph (b) explicitly includes only public organizations established for "promoting environmental, health care, amateur athletic, cultural, educational or scientific activities."

⁴⁵⁷ According to the State Tax Administration, about fifty percent of all registered NGOs are entered in the Registry. Of those rejected, forty-five percent reported that they were not entered into the NPO Registry because their articles did not comply with the requirements of the law. O. Sidorenko, "Public and Charitable Organizations of Ukraine," *Perehrestie* No. 2(7), 2000.

⁴⁵⁸ Article 7(11)(8) of the Profits Tax Law.

The procedure for registering an organization in the Registry of NPOs is stipulated in the Regulation of the State Tax Administration, “On the Register of Non-Profit Organizations and Institutions.”⁴⁵⁹ After an NPO is entered into the registry, it is required to file tax statements to the tax authorities on a quarterly basis. Tax-exempt status need not be renewed each year (although the State Tax Administration may withdraw this status as a result of a violation by such organization of applicable legislation).

Some legal entities are exempt from profits tax generally. For example, subsidiaries established by organizations of handicapped individuals are tax exempt on all their income (except gambling and excisable items), provided at least 50 percent of the employees of such organizations are disabled individuals and payroll for disabled employees amounts to at least 25 percent of total payroll expenses. Additionally, they must be certified by regional inter-departmental commissions on a case-by-case basis to be eligible for this exemption.⁴⁶⁰ Income received by preschool educational establishments for carrying out their charter activities is also tax exempt.⁴⁶¹

4. Taxation of Revenues Obtained on a Gratuitous Basis

As noted above, donations in cash or in kind are exempted when given to (a) government authorities and organizations funded by the state budget; (b) charitable and public organizations; (c) religious organizations; and (d) professional associations and trade unions.

Membership fees are explicitly exempt only for (a) pension funds and credit unions; (b) unions, associations, and other alliances representing members’ interests; (c) building cooperatives, condominiums, and other associations of housing co-owners; and (d) professional and trade unions. However, tax authorities’ administrative practices tend to exempt membership dues for charitable and religious organizations, too, considering them the same as cash or in-kind assets; received gratuitously.⁴⁶²

Grants are exempt for (a) government organizations funded by the state budget; (b) charitable and public organizations; (c) pension funds and credit unions; (d) other legal entities whose activities are not intended to generate profit; and (e) unions, associations, and other alliances serving members’ interests.

5. Taxation of Income from Economic Activities

Under the Law “On Citizens’ Associations,”⁴⁶³ public organizations are still prohibited from directly engaging in any form of economic activity, except through a specially created business subsidiary. Despite this outright statutory prohibition, the Profits Tax Law seems to take a more lenient approach towards this issue. Various provisions of the law imply the possibility for an

⁴⁵⁹ The Order of the State Tax Administration on Approving the Regulation of the State Tax Administration, “On the Register of Non-Profit Organizations and Institutions, as of July 11, 1997, No. 232.

⁴⁶⁰ Article 7(12) of the Profits Tax Law; Article 5(2)(1) of the VAT Law.

⁴⁶¹ Article 7(13)(6) of the Profits Tax Law.

⁴⁶² See STA opinion N 24299/7/15-1317 of December 14, 2004.

⁴⁶³ The Law on Citizens’ Associations of Ukraine, as of June 16, 1992 (with subsequent amendments, as of May 13, 1999).

NPO to engage in certain types of economic activity, and, as a matter of fact, NPOs do engage in some economic activities. Charitable organizations, under the Charity Law, are expressly allowed to carry out economic activities provided they are aimed at achieving the charity's statutory purposes.⁴⁶⁴

The tax legislation defines "economic activity" as "any type of activity carried out by a person aimed at deriving income in monetary, in-kind, or other form, provided such activity is regular, stable, and substantial."⁴⁶⁵ The tax authorities generally interpret economic activity as any provision of goods, work, and services, whether for value or not.

As noted in the discussion above at A.3, "paragraph (b)" organizations (under Article 7(11)(3)) are exempt from taxation of income derived from "primary activities." The interpretation of what constitutes "primary activities" and whether economic activity may be part of the "primary activities" has long been a contentious issue. Tax authorities have often taken the position that an economic activity for an NPO may be permissible only if specifically provided for by the relevant law under which the NPO was established, and specified in the NPO's charter. As a result, many NPOs were either excluded from the NPO Registry or precluded from directly engaging in economic activities, because the law under which many were established, the Law on Citizen's Associations, provides that a public organization may engage in economic or other commercial activity *only* by establishing a separate legal entity.⁴⁶⁶

The Profits Tax Law was amended in 2004-2005 to introduce a definition of "primary activities." Primary activities are charitable activities, with the provision of educational, cultural, scientific, informative, and other similar services in the public interest, and provision of services in connection with the social security system (pension funds, credit unions and similar organizations). Additionally, "primary activities" include the sale of goods and services by NPOs that promote principles and ideas which are closely related to an NPO's primary activities, provided that the price for such goods and services is lower than the usual price or subject to state regulation. Organizations exempt under Articles 7(11)(4),⁴⁶⁷ 7(11)(5),⁴⁶⁸ and 7(11)(6)⁴⁶⁹

⁴⁶⁴ Article 20 of the Charity Law. However, the law interchangeably uses the terms "entrepreneurial," "commercial activities," and "economic activity" without providing a definition of any of them. The Law on Licensing defines "economic activity" as any activity connected with the production of goods, trade, or provision of services and labor.

⁴⁶⁵ Article 1.32 of the Profits Tax Law.

⁴⁶⁶ Article 24 of the Law on Citizens' Associations. Another problem has been the compulsory state licensing or accreditation of many social services (medical, legal, tourist, educational, sports and some research) under the Law on Licensing of Certain Kinds of Commercial Activities. A license may be received by any properly registered legal entity *undertaking economic activities*, regardless of the legal status or type of ownership, except for state and local governmental authorities and self-employed individuals. However, the Tax Administration has often used an organization's receipt of a license for economic activities, which include the provision of services or labor, as the basis for excluding an organization from the Registry of NPOs, regardless of whether such services were rendered for profit. The possibility of losing tax benefits deters organizations from applying for licenses, and hence from providing services that may otherwise be in line with their statutory purposes.

⁴⁶⁷ Pension funds and credit unions.

⁴⁶⁸ Other legal persons, not listed in paragraph (b) of 7(11)(1), whose activities are not intended to generate profit (primarily organizations providing services only to their members, as well as cooperatives).

⁴⁶⁹ Unions and associations of legal persons established to serve the interests of their members, which are funded exclusively by membership fees and do not carry out any economic activities other than generating passive income.

are exempt for sales to their members or founders only.⁴⁷⁰ Finally, the Cabinet of Ministers has the right to suspend this regulation on sales of specific goods and services in cases of violations of anti-trust laws.⁴⁷¹

Thus the definition expressly allows NPOs to engage in economic activities, i.e., sale of goods and services, provided they promote the principles and ideas for the which the NPO was established, are closely related to the NPO's primary activities, and their price is lower than the fair market price or is subject to state regulation. The implementation of this regulation was suspended in 2004-2005, however, resulting in a dramatic decrease of income from economic activities: from 21 percent in 2003 to 7 percent in 2006.⁴⁷²

NPOs may engage in economic activities other than those within the scope of their "primary activities," and still maintain their tax-exempt status. Such conclusion may be inferred from two different provisions of the Profits Tax Law. Article 7(11)(9) provides that in the event the NPO receives income from sources other than those specified by Article 7(11)(2)-(7)(11)(7), including donations in cash or in kind, passive income, income from primary activities/services, public subsidies, and grants, it should pay an income tax on general grounds on such portion of its income. Additionally, Article (16)(10)(2) of the Profits Tax Law provides that "nonprofit organizations provided for under paragraph 7(11) shall pay income tax on revenues from minor activities on general terms." Income obtained from activities other than primary activities (i.e. economic activities) is subject to a flat 25 percent tax rate.

6. Availability of Exemptions for Passive (Investment) Income and Other Income

The Profits Tax Law defines "passive income" as "profits received as interest, dividends, insurance benefits and indemnities, as well as royalties."⁴⁷³ The passive income of all types of NPOs is tax-exempt.

Dividends. Income of an NPO received in the form of dividends is tax exempt (dividends are deemed passive income). When paying out dividends, an issuer of dividends must withhold and make an advance payment of profits tax in the amount of 25 percent of the amount of dividends. The amount of profits tax paid by the issuer upon distribution of dividends is deductible from the aggregate amount of profits tax accrued in the current or subsequent reporting periods.⁴⁷⁴

⁴⁷⁰ Credit unions, cooperatives and other NGOs in question may sell not more than 20 percent of their total service amount to non-members under the special laws on such NGOs. Thus, sales to members are "related to the mission" of such NGOs and exempt from corporate tax; sales to non-members are not "related" and taxable on the general grounds.

⁴⁷¹ Article 7(11)(13) of the Profits Tax Law. This Article excludes from the scope of primary activities of certain mutual benefit organizations (pension funds, credit unions, etc.) the provision of goods or services to persons other than founders, participants, and members. In other words, while sales by such NPOs to their own members are treated as primary activities and therefore exempt from income tax, services for fees by mutual benefit organizations to persons other than members could potentially result in exclusion from the Registry and loss of their tax exempt status.

⁴⁷² The data on NPO income were provided by Civil Society Institute.

⁴⁷³ Article 7(11)(13) of the Profits Tax Law.

⁴⁷⁴ Article 7(8)(2) – 7(8)(4) of the Profits Tax Law.

Rent and Lease Income. Rent and lease payments are not considered to be passive income. They are not taxed to the extent the rental payments do not exceed costs (including, for example, maintenance costs, electric, and other communal charges) and accrued depreciation. Any income in excess of costs and depreciation is taxed on general grounds.

Capital Gains. Capital gain received by an NPO (i.e. positive difference between the selling price of an asset and its balance sheet cost) is not considered passive income and is subject to tax on general grounds. This capital gains tax applies even to one-time sales.⁴⁷⁵

7. Regulation of Expenditures

Any retained profit in excess of 25 percent of exempt revenues is taxed, unless at least 75 percent of tax-exempt revenue (passive income, donations, related-activity income, etc.) was spent before April 1 of the subsequent fiscal year. This rule applies to NPOs listed under section (d) of Article 7.11.1 of the Profits Tax Law (cooperatives, etc.).

8. Deduction of Charitable Contributions

Ukrainian law provides some income tax benefits to natural persons and legal entities that make donations to NPOs listed in the Registry. The law allows legal entities to deduct donations made to NPOs (including fees to arbitration courts established by NPOs) in the amount ranging from 2 to 5 percent of their taxable profit for the preceding year.⁴⁷⁶ Governmental and municipal agencies or institutions, like NPOs, are qualified recipients of deductible donations. In practice, legal entities often make donations to the state or local budgets in support of local educational facilities, health care, culture, or other projects. Legal entities can deduct from their taxable income an additional 2 to 10 percent for donations to museums, NPOs of culture, science, and art engaged in the protection of Ukraine's cultural heritage. These donations count separately from the above-mentioned 5-percent threshold. A 10-percent deduction may also be taken on donations to public associations of disabled victims of the nuclear reactor accident in the Chernobyl Nuclear Power Plant.⁴⁷⁷

Since 2005, donations in cash or in kind by natural persons in amounts ranging from 2 to 5 percent of the donor's taxable income for the preceding year are deductible for donations to all types of registered NPOs.⁴⁷⁸ However, few individual donors take advantage of these tax credits due to the fact that only yearly income received by the individual taxpayers as wages is counted in determining deductibility.⁴⁷⁹ Due to the moderate standard flat rate of personal income tax in Ukraine – 15 percent since January 2007,⁴⁸⁰ – such a tax credit is of little practical interest for employees, and of little relevance to wealthy individuals earning investment income and income other than wages.

⁴⁷⁵ Article 5 of the Profits Tax Law.

⁴⁷⁶ Article 5(2)(2) of the Profits Tax Law. The tax deduction rule does not apply to small enterprises that are taxed according to the special “simplified taxation system.” See the Presidential Decree on the Simplification of Taxation, Accounting, and Reporting for Small Enterprises, as of June 28, 1999, No. 746.

⁴⁷⁷ Article 5.2.3 of the Profits Tax Law.

⁴⁷⁸ Article 5.3.2 of the Law on Personal Income Tax No 889 as of May 22, 2003 (with further amendments).

⁴⁷⁹ Article 5.3.6 of the Law on Personal Income Tax.

⁴⁸⁰ Article 7.1 of the Law on Personal Income Tax.

Moreover, the practical impact of tax credits for individual donors is also limited by unclear procedures for estimating the value of donations in kind. Further, the tax credit laws as interpreted by tax authorities are confusing (e.g., donations in national currency only may be deductible in 2008, while the Personal Income Tax Law text makes no such references).

No carryovers of unused charitable deductions are allowed.⁴⁸¹

B. VAT

1. General Principles

A “taxpayer” for purposes of the Law of Ukraine on the Value Added Tax⁴⁸² (the “VAT Law”) is a person who is under an obligation to withhold and contribute to the budget taxes paid by buyers or persons importing (sending) goods to Ukraine’s customs territory.⁴⁸³

An organization is considered a VAT taxpayer if:⁴⁸⁴

- its taxable transactions involving the sale of goods (work, and services over the most recent 12 months exceeds 300,000 UAH (approximately 40,000 USD);
- it imports goods to Ukraine’s customs territory or receives work/services from a nonresident (including sales via the internet) for use or consumption in Ukraine’s customs territory;⁴⁸⁵
- it sells confiscated items of any amount;
- it renders passenger or freight services in Ukraine’s customs territory;
- it is responsible for tax payments for objects that are part of the rail transport network, in accordance with procedures adopted by the Cabinet of Ministers of Ukraine; or
- it or its subsidiaries render communications services and have consolidated reporting on revenues and expenditures related to these services.

The following operations are subject to taxation:⁴⁸⁶

- sales of goods (work, services) in Ukraine’s customs territory, including payments for services under leasing contracts and when assigning mortgage ownership rights to a lender (creditor) to redeem the mortgagor’s credit arrears;
- imports of goods to Ukraine’s customs territory and receipt of services by non-residents to be used or consumed in Ukraine’s customs territory, including importation of property under lease, pledge and mortgage contracts; and
- exports of goods from Ukraine’s customs territory and rendering services to be used outside Ukraine’s customs territory.

⁴⁸¹ Article 5.4.3 of the Law on Personal Income Tax.

⁴⁸² The Law on the Value Added Tax of Ukraine, No 168, as of April 03, 1997 (with subsequent amendments).

⁴⁸³ Article 1.3 of the VAT Law.

⁴⁸⁴ Article 2 of the VAT Law.

⁴⁸⁵ Individuals who are not already registered taxpayers are excepted when they import goods in amounts that are not taxable pursuant to legislation.

⁴⁸⁶ Article 3 of the VAT Law.

2. VAT Rates

The VAT is levied at a flat rate of 20 percent of the amount of a taxable transaction.⁴⁸⁷ No decreased rates are currently in effect.

A zero-rate applies mainly to exported goods, work(s), and services, and international passenger and freight transportation. Sales by subsidiaries established by organizations serving disabled individuals (except gambling and excised items) are also subject to a zero rate.⁴⁸⁸

3. Registration

Any person entering into taxable transactions involving the sale of goods or services of an aggregate value exceeding 300,000 UAH (approximately 40,000 USD) for any period of the preceding 12 calendar months is obligated to register as a VAT taxpayer.⁴⁸⁹ Many organizations do not meet this threshold and as a result need not register and pay VAT. Organizations that have paid VAT taxes but fail to reach the threshold amount are not able, however, to recover amounts already paid. However, if within 24 calendar months of registration as a VAT payer, an organization's sales for the preceding 12 calendar months do not exceed the tax-exempt minimum, the organization's registration is annulled by the tax authorities.⁴⁹⁰

4. Exemptions for Specific Categories of Organizations

Paragraph “b” of the Article 7(11)(1) of the Profits Tax Law exempts NPOs from VAT payment on gratuitous imports of goods and services for charitable purposes. This exemption does not apply to excise goods, securities, intangible assets, and certain goods specified by the government that are intended for economic activity. Any undeclared payments for such goods and services would be considered tax evasion, and these revenues or goods are subject to seizure.⁴⁹¹

NPOs of disabled persons⁴⁹² are exempt from VAT on sales of their goods and services, except for sales of excise goods, gambling services, and purchased goods. Such organizations may also claim a zero-rate VAT and seek a rebate of any VAT paid in connection with purchasing goods or services). In order to claim the rebate, an NPO of disabled persons must receive a permit from the Inter-Departmental Commission on Enterprises and Public Organizations for the Disabled, as set forth in the Law on Social Protection for the Disabled.⁴⁹³

⁴⁸⁷ Article 6.1 of the VAT Law.

⁴⁸⁸ Article 6.2.8 of the VAT Law.

⁴⁸⁹ Article 2.1 of the VAT Law.

⁴⁹⁰ Article 9.6 of the VAT Law.

⁴⁹¹ Article 5.1.21 of the VAT Law.

⁴⁹² An organization is considered to be an NPO of disabled persons if at least 50 percent of its workforce is comprised of disabled employees; at least 25 per cent of its wages are paid to disabled employees; and the employees' value added is at least 8 per cent of sales price.

⁴⁹³ Article 5.2.1 and 6(2)(8) of the VAT Law.

Any VAT payments are also returned to members of the International “Soyuz Chernobyl” Organizations and of the National “Soyuz Chernobyl” Public Organization of Ukraine, so long as over 75 percent of the organization's employees are victims of the Chernobyl disaster.⁴⁹⁴

5. Exemption for Specific Categories of Goods and Services

Sales or transfers of goods or services are generally subject to VAT based on their actual value – an amount not lower than market value – even when these transactions are conducted for free or below their actual cost.⁴⁹⁵ As an exception to this rule, VAT is not levied on charitable aid or on free-of-charge transfers of goods or services to charitable organizations, other organizations listed in the NPO Registry (for example, religious), state or municipal authorities, or state or locally owned organizations, institutions, or enterprises. In addition, VAT is not levied on the free transfer of goods or services to beneficiaries of charitable aid recognized as such by law.⁴⁹⁶

The Law on Humanitarian Aid⁴⁹⁷ specifies the procedures for labeling and distributing charitable (humanitarian) aid, as well as for control over the provision of humanitarian services. In accordance with this law, if charitable (humanitarian) aid is received from a foreign legal or natural person, the recipient of such aid must be accredited by the Commission on Humanitarian Aid to receive exemptions from the VAT and other taxes.

The contribution of assets to the charter capital of a legal entity⁴⁹⁸ and an organization’s collection of membership dues are not considered taxable transactions.

The VAT Law establishes a list of transactions that are exempt from VAT regardless of whether such transactions are performed by commercial or non-commercial entities. The list includes, *inter alia*:

- sale through subscription and delivery of print media;
- sale of books, school notebooks, school textbooks, and other educational materials produced in Ukraine;
- payment of tuition for primary, middle, or higher education in properly accredited institutions;
- sale of specialized goods for the disabled;
- healthcare services rendered by properly accredited institutions; and
- the maintenance of homes for the elderly and disabled.⁴⁹⁹

6. VAT Rebate Procedure

VAT payers eligible for rebates may choose either to claim a cash rebate (via bank wire or treasury checks) or to make reduced VAT contributions in subsequent periods. All VAT rebate

⁴⁹⁴ Resolution of the Cabinet of Ministers, No. 1279, as of October 17, 1996,

⁴⁹⁵ Article 4.2 of the VAT Law.

⁴⁹⁶ Article 4 of the VAT Law.

⁴⁹⁷ The Law on Humanitarian Aid, as of October 22, 1999.

⁴⁹⁸ Article 3.2.8 of the VAT Law.

⁴⁹⁹ Article 5 of the VAT Law.

claims must be audited by tax authorities within 30 days after a VAT declaration is filed.⁵⁰⁰ Delays and refusals to make VAT rebates are common in Ukraine.

C. Property Tax (Including Real Estate)

1. Applicable Taxes

There is no general property tax in Ukraine; however, there is a land tax provided for in the Law on the Land Payments (Law on the Land Tax). The land tax is paid by land owners and land users, including those who use plots of land on the basis of lease agreements. Generally, the Law on the National Budget establishes the land tax rate for each fiscal year; other laws may not change the land tax rates.⁵⁰¹ The tax rate is 1 percent of appraised value of the site, or, if a local government makes no appraisals, the tax is levied at an average rate (up to 0.40 USD per square meter at present).⁵⁰²

2. Tax Benefits

The following organizations are exempt from land tax:

- children's health care institutions;
- public organizations of disabled individuals and subsidiaries established by such organizations;
- registered charitable organizations that do not carry out economic activities; and
- registered religious organizations that do not carry out economic activities.⁵⁰³

These groups lose their tax exemption if they rent land plots or run other business activities at those locations. Local authorities may exempt a taxpayer from the portion of the land tax that is paid to the local budget. In practice, local authorities often exempt NGOs from this tax in part or in full.

D. Miscellaneous: Other Exemptions and Benefits

NGOs that are plaintiffs on behalf of other persons, Ukrainian and international associations of Chernobyl victims, NGOs of disabled individuals, and some other nonprofits are exempted from court filing and notary fees.

Local taxes are regulated by the Cabinet of Ministers Resolution on Local Taxes and Duties. Local authorities may grant exemptions to NGOs from any local tax or local portion of a national tax. The largest local tax paid by NGOs is the local payroll tax, as set by local authorities but generally proportional to the number of employees. The amount of this tax is fairly insignificant: up to 10 percent of an amount equal to 17 UAH (approximately 3 USD) times the number of

⁵⁰⁰ Article 7.7 of the VAT Law.

⁵⁰¹ Article 4 of the Law on the Land Payments of Ukraine (Law on the Land Tax), as of July 3, 1997 (with subsequent amendments).

⁵⁰² This rate may be increased by a factor of five for recreational sites.

⁵⁰³ Article 11 of the Law on the Land Tax.

employees, annually. Many local governments do not levy this tax, or grant partial or general exemptions for NGOs. An NGO does not pay this tax if it has no employees or outside individual contractors.⁵⁰⁴

NPOs are not exempt from the advertising tax (0.1 percent and 0.5 percent of fees) or the entertainment tax (3 percent of revenues from any concert, exhibition, festival or similar event, except those recognized to be charitable by local government agencies).⁵⁰⁵

⁵⁰⁴ Article 15 of the Resolution of the Cabinet of Ministers of Ukraine on Local Taxes and Fees, as of May 20, 1993 (with subsequent amendments).

⁵⁰⁵ Article 6 of the Law on Entertainment Events in Ukraine No. 1115 of July 10, 2003

UZBEKISTAN

A. Income (Profit) Tax

1. Notions and Definitions

The Tax Code of the Republic of Uzbekistan (“Tax Code”)⁵⁰⁶ imposes profits tax on two categories of legal entities:

- Residents of the Republic of Uzbekistan;
- Non-residents of the Republic of Uzbekistan carrying out activities in the Republic of Uzbekistan via a permanent establishment, or deriving profits whose sources are located on the territory of the Republic of Uzbekistan.⁵⁰⁷

The tax base is defined as taxable profit, calculated as the difference between revenue and deductible expenses, adjusted in compliance with Article 159 of the Tax Code. Dividends are excluded from taxable income.⁵⁰⁸ Revenue includes the following:

- Proceeds from the sale of goods (works, services);
- Other revenues.

Proceeds from the sale of goods (works, services) are construed as revenues from sales, including those provided by auxiliary services, less VAT, and excise duties payments.⁵⁰⁹

According to the Civil Code of the Republic of Uzbekistan, “non-commercial organizations” (NCOs) are defined as legal entities that may not pursue profit as their main purpose, and that may be set up in the form of a public association, a public foundation, or an institution financed by an entity’s owner, or in any other form permitted by legislation.⁵¹⁰

The Law “On Non-Governmental, Non-Commercial Organizations (“Law on NNOs”)⁵¹¹ introduced the term “non-governmental NCO,” or NNO, and defined a NNO as a “self-regulated organization established by physical persons and/or legal entities which (a) does not pursue profit as its primary goal, and (b) does not distribute income (profit) among its participants (members).”⁵¹²

Article 17 of the Tax Code provides a clear definition of which organizations may be regarded non-commercial for the purposes of taxation: “NCOs shall be defined as legal entities which do not have gaining profit as the main aim of their activity and which do not distribute income

⁵⁰⁶ The Tax Code of the Republic of Uzbekistan was established by Law dated December 25, 2007, No. 136 and came into effect on January 1, 2008 (the “Tax Code”).

⁵⁰⁷ Article 126 of the Tax Code.

⁵⁰⁸ Article 296 of the Tax Code.

⁵⁰⁹ Article 130 of the Tax Code.

⁵¹⁰ Article 40 of the Civil Code of August 29, 1996 (with subsequent amendments).

⁵¹¹ The Law on Non-Governmental, Non-Commercial Organizations of April 14, 1999 (hereinafter “Law on NNOs”).

⁵¹² Article 2 of the Law on NNOs.

among their participants (members). NCOs include governmental or budget-funded organizations, including bodies of public authorities and management, NNOs, including international organizations which have been officially registered in the Republic of Uzbekistan as well as citizens' self-governing bodies.”

2. Rates of Profit Tax

Rates of profit tax and other mandatory payments are established by decision of the President of the Republic of Uzbekistan unless the Tax Code establishes otherwise.⁵¹³ The rate of corporate profit tax for the year 2008 is 10 percent. The rate of tax on dividends and interest paid to legal entities is 10 percent.

3. Privileges for Certain Types of Organizations and Revenues

The following two categories of entities are exempt from profits tax:⁵¹⁴

- NCOs, unless they are engaged in entrepreneurial activities, must pay taxes on profits obtained as a result of their entrepreneurial activities;
- Legal entities eligible for a simplified regime of taxation.⁵¹⁵

In general, small companies and businesses may choose between a simplified regime of taxation which prescribes a flat tax payment, and payment of generally established taxes. Nevertheless, to date, NCOs have not been deemed eligible to utilize the simplified regime of taxation.

4. Taxation of Revenues Obtained on a Gratuitous Basis

Some revenue is not regarded as taxable income,⁵¹⁶ including:

- State budget subsidies;
- Assets (property and property rights) received on a gratuitous basis, provision of works and services, in the event that such provision occurred pursuant to a decision of the President of Republic of Uzbekistan or the Cabinet of Ministers of Republic of Uzbekistan;
- Received grants;⁵¹⁷
- Assets obtained by NCOs for the purpose of maintaining and carrying out their statutory activities which were designated to a specific purpose and or/received gratuitously.

⁵¹³ Article 27 of the Tax Code.

⁵¹⁴ Article 126 of the Tax Code.

⁵¹⁵ Including micro-firms, small enterprises, trade and food companies, public notary offices, etc.

⁵¹⁶ Article 129 of the Tax Code.

⁵¹⁷ Article 22 of the Tax Code. A grant includes assets provided free of charge by states, governments, international and foreign governmental organizations, international and foreign NCOs included in the list established by the Uzbek Government, the Uzbek Government, self-governing bodies, physical persons and legal entities, and property provided free of charge by foreign nationals and stateless persons to the Republic of Uzbekistan and the Uzbek Government.

5. Taxation of Income from Entrepreneurial Activities

According to the Civil Code, NNOs may engage in commercial activities “within the limitations consistent with their statutory purposes.”⁵¹⁸ Failure to comply with this provision may lead to a suspension of activities. NNOs engaged in entrepreneurial activities must pay taxes on profits obtained as a result of their entrepreneurial activities.⁵¹⁹

The Law “On guarantees for free entrepreneurial activities”⁵²⁰ provides a definition of “entrepreneurial activities.” “Entrepreneurial activity (entrepreneurship) is independent, legal activity carried out aimed at obtaining revenues (profits) at their own risk, and for which they are liable with all of their property.” In practice, all income obtained by NNOs from commercial or investment activities are deemed to have been obtained as the result of entrepreneurial activities and, consequently, subject to profits tax.

6. Tax Benefits for Certain Investment Activities

The rate of tax on dividends and interest paid to legal entities is 10 percent, and taxed at the source of payment.

Income from state-issued bonds and other state-issued securities, as well as the interest from investments of temporarily unrestricted assets of the off-budget Pension Fund of the Republic of Uzbekistan under the Uzbek Ministry of Finance, are free from profits tax.

Residents and non-residents of the Republic of Uzbekistan carrying out activities in Uzbekistan through a permanent establishment, and receiving dividends and interest which were earlier taxed at the source of payment in Uzbekistan, may deduct them from their gross income. Incomes obtained as dividends and transferred to the statutory capital of a legal entity from which they received the income are not taxable.

7. Regulation of Expenses

Article 24 of the Law On Public Foundations⁵²¹ establishes a maximum acceptable amount of administrative expenses for a public foundation, which is set at 20 percent. Administrative expenses include payments to members of the board of trustees and the audit committee.

8. Deduction for Charitable Contributions

The taxable profits of legal entities may be decreased by the amount of:

- Contributions to ecological, health promotion, and charitable foundations, institutions of culture, public education, health care, labor and social protection of population, physical

⁵¹⁸ Article 31 of the Law on NNOs and Article 40 of the Civil Code.

⁵¹⁹ Article 126 of the Tax Code.

⁵²⁰ Article 3 of Law No. 69-II of May 25, 2005, “On guarantees for free entrepreneurial activities.”

⁵²¹ The Law of the Republic of Uzbekistan “On Public Foundations” dated September 29, 2003 (hereinafter referred to as the Law on Public Foundations).

culture and sports, bodies of citizens self-governance, by an amount not exceeding 1 percent of the taxable income of the giver;

- Assets provided gratuitously as contributions to pay off mortgage loans and/or for purchasing housing for the employees with young families, in an amount not exceeding 10% of the taxable income of the giver/ employer;
- Transfers made from profits of enterprises in ownership of religious and public associations (except for trade unions, political parties, and movements) and charitable foundations designated to pursue the statutory activities of such associations and foundations.⁵²²

B. VAT

1. Notions and definitions

The procedure for calculation and payment of the Value Added Tax (VAT) is established by Articles 197-228 of the Tax Code. Payers of VAT include the following:

- Legal entities possessing taxable turnover;
- Legal entities which are required to pay VAT for taxable turnovers effectuated by non-residents in the Republic of Uzbekistan;
- Legal entities and physical persons importing goods to Uzbekistan except for individuals bringing in goods for personal needs in the amounts which are not subject to customs dues;
- A co-partner (participant) in a simple partnership authorized to handle the affairs of a simple partnership (authorized representative), when the representative effectuates taxable turnovers.⁵²³

2. VAT Rates and Payment

The VAT rate is 20 percent.⁵²⁴ A zero rate only applies to exporters, fuels, and lubricants for agricultural enterprises. The VAT to be paid is estimated as the difference between the amount of tax on the taxable turnover and the amount of tax to be offset in accordance with Article 218 of the Tax Code.

3. Tax Exemptions for Certain Entities

NCOs are exempt from the payment of VAT, except when they have turnover from sale of goods (works, services) which constitute entrepreneurial activities. In addition, legal entities eligible for the simplified regime of taxation are exempt from VAT.⁵²⁵

4. Tax Benefits for Special Products and Services

⁵²² Article 159 of the Tax Code.

⁵²³ Article 197 of the Tax Code.

⁵²⁴ Decree of the President of RU of 12.12.2007No.PP-744.

⁵²⁵ Article 197 of the Tax Code.

Certain transactions are exempt from VAT, including:⁵²⁶

- Services (activities) provided by state bodies, citizens' self-governing bodies, and other authorized organizations on which government's fee and dues are imposed;
- Supplies of goods (works, services) provided by legal entities owned by public associations of disabled persons, the Nuronium Foundation, and the Chernobyl Recovery Workers of Uzbekistan Association, where disabled employees account for at least 50 percent of the total number of employees, except for turnover from supplies of intermediary, trading, logistical, supply and distribution services;
- Supplies of goods acquired by legal entities through loans (credits) provided by international and foreign governments' financial organizations under international agreements with the Republic of Uzbekistan or goods acquired through grants.

The following imports are VAT-exempt, including:⁵²⁷

- Goods imported by physical persons within limits established in customs legislation for duty-free importation;
- Goods designated for official use by foreign diplomatic missions and their equivalents, as well as for personal use by diplomatic, administrative, and technical personnel of said missions, including family members residing with such personnel;
- Goods imported as humanitarian aid under the process established by the Cabinet of Ministers of the Republic of Uzbekistan;
- Goods imported for charitable purposes, including technical assistance by states, governments, and international organizations;
- Goods imported through grants provided by states, governments, and international organizations;
- Medicinal drugs and medical (veterinary) devices, as well as raw materials imported for use in production of medicinal drugs and medical (veterinary) devices.

5. VAT Rebate Procedure

The Ministry of Finance of the Republic of Uzbekistan administers VAT rebates.⁵²⁸ The taxpayer must provide to the local tax authorities with which it is registered a written petition accompanied by the following documents in quadruplicate:

- A statement verifying amounts due in taxes and other mandatory payments. The statement shall be completed before the fifteenth day of the month succeeding the month of reporting. The statement shall remain valid throughout the calendar month;
- VAT computations;
- Information regarding amounts and dates of reimbursement, if the legal entity has received any prior reimbursements of VAT.

⁵²⁶ Article 208 of the Tax Code.

⁵²⁷ Article 211 of the Tax Code.

⁵²⁸ Article 228 of the Tax Code.

C. Property Tax and Land Tax

1. Applicable Taxes

Payers of the legal entity's property tax include:

- Resident legal entities that possess taxable property in the Republic of Uzbekistan;
- Non-resident legal entities that conduct their activities in the Republic of Uzbekistan through a permanent establishment and/or possess real estate on the territory of the Republic of Uzbekistan, unless international treaties to which the Republic of Uzbekistan is a party provide otherwise. If location of a real estate owner cannot be determined, the person who possesses and/or uses the property will be regarded as its owner. Pursuant to Article 20 of the Tax Code, activities conducted in the Republic of Uzbekistan by a non-resident legal entity are characterized through activities of the legal entity's permanent establishment.⁵²⁹

Property tax is computed on the basis of an average remaining value (average annual value) of taxable items. This average is calculated as one-twelfth of the cumulative sum of remaining values (average annual values) of taxable items as of last day of each month in the reporting period.⁵³⁰

Land tax must be paid by legal entities, including non-resident legal entities of the Republic of Uzbekistan, who have plots of land that they own, possess, use or rent.⁵³¹

2. Tax Benefits

The following legal entities are exempt from property and land tax:

- Organizations specializing in health care, physical education, provision of social services, public education, culture, and the arts;
- Legal entities owned by public associations of disabled persons, the Nuroniy Foundation, and the Chernobyl Recovery Workers of Uzbekistan Association, in which disabled employees account for at least 50 percent of the total number of employees, veterans of and civilian workforce during the war of 1941-1945, excluding legal entities engaged in trading, intermediary, logistical, supplying, and sales activities. For the purpose of determining eligibility to receive this benefit, only full-time employees may be included in the total staff number;⁵³²
- NCOs, unless they are engaged in entrepreneurial activities;
- Legal entities entitled to the simplified tax process.⁵³³

⁵²⁹ Article 265 of the Tax Code.

⁵³⁰ Article 268 of the Tax Code.

⁵³¹ Article 279 of the Tax Code.

⁵³² Article 269 of the Tax Code.

⁵³³ Article 265 of the Tax Code.

D. Miscellaneous

1. Other Taxes and Mandatory Payments

NCOs are exempt from water resources use tax, unless they engage in entrepreneurial activities. In the latter case, they must pay water resources tax on amounts of water they use for entrepreneurial activities.⁵³⁴

NCOs are exempt from tax for development and improvement of social infrastructure, except profits they receive from entrepreneurial activities.⁵³⁵

Legal entities owned by public associations of disabled persons, the Nuroiniy Foundation, and the Chernobyl Recovery Workers of Uzbekistan Association, where disabled employees account for at least 50 percent of the total number of employees, veterans of and civilian workforce during the war of 1941-1945, except legal entities engaged in trading, intermediary, logistical, supplying, and sales activities, shall be exempt from tax [used] for development and improvement of social infrastructure. For the purpose of determining eligibility to receive this benefit, only full-time employees may be counted in the total number of staff.⁵³⁶

NCOs are exempt from mandatory contributions to the extra-budgetary Retirement Fund⁵³⁷ and the National Road Improvement Fund,⁵³⁸ except profits they receive from entrepreneurial activities.

⁵³⁴ Article 257 of the Tax Code.

⁵³⁵ Article 295 of the Tax Code.

⁵³⁶ Article 298 of the Tax Code.

⁵³⁷ Article 312 of the Tax Code.

⁵³⁸ Article 316 of the Tax Code.

Comparative Charts: Profits Tax

Country	General Rate	Exempt Organizations	Exempt Income	
			Gratuitous	Passive (Investment)
Armenia	20%	NCOs are not exempt from profits taxes, except on gratuitously received income.	Assets (including membership fees) and services received by NCOs on a gratuitous basis are not considered "income" for taxation purposes.	NGOs receive exemptions on income from dividends, income from privatization certificates, residual property received from liquidation of legal entity, and income from investment in foreign currencies and securities.
Azerbaijan	22%	NCOs are exempt from profits tax on income derived from gratuitous transfers, membership fees, and donations. Charitable organizations are exempt from profits tax, except with respect to income received from entrepreneurial activities.	NCOs are exempt from profits tax on income derived from gratuitous transfers, membership fees, and charitable contributions. Grants are also exempted though not specifically referred to in the Tax Code.	Interest and dividends are subject to a 10% tax withheld at the source.
Belarus	24%	No blanket exemption is available to non-commercial organizations. Public and religious organizations are exempt with respect to certain gratuitous income. Enterprises that employ handicapped individuals are exempt if no less than 50% of the total number of employees are handicapped individuals. Certain exemptions are linked to specific areas of activity (e.g., manufacturing prosthetic and orthopedic devices and means of rehabilitation and care for the handicapped).	Public and religious organizations (associations), republican state-public associations and other noncommercial organizations founded in accordance with relevant legislation may deduct the following revenues from the general taxable amounts: entrance and membership fees and payments for shares; foreign gratuitous assistance; Financial resources, including those in foreign currency and other assets (including those referred to as capital assets, goods and material valuables and non-material assets) obtained as international technical assistance; revenue paid by participants (members) for the cost of services provided; the cost of goods included in the overall cost of said works (services) which are incurred in connection with maintaining and operating immovable property; the value (cost) of goods and services,	Generally, no exemption. The only exception applies to interest earned by non-commercial organizations on funds that are generally exempt (e.g., entry/membership fees) deposited in banks.

			monetary assets, other valuables and property rights obtained gratuitously and used in accordance with the statutory goals or other purposes specified by the organization's articles of association of public and religious organizations (associations) or other non-commercial organizations, in the event the earmarked purpose is not specified by the giving party.	
Georgia	15%	Charitable organizations are exempt from profits tax, except for any profit from economic activity. Budget-funded (state), charitable, and international organizations, among other entities, are partially or completely exempt from profits tax.	Grants, membership fees and donations received by an "organization" are exempt from profit tax.	No exemptions for passive investment income.
Kazakhstan	20%	Three categories of organizations that enjoy some tax exemptions: non-commercial organizations (NCOs) and two kinds of social sphere organizations (SSOs)	NCOs are exempt from taxation of income received in the form of grants, entry and membership fees, charitable and sponsorship aid, gratuitously transferred property, subsidies, and donations. SSOs are exempt from taxation on income received from engaging in specified activities and gratuitously received property (so long as the income is directed towards exempt activities), without specifying particular types of such receipts.	NCOs are exempt from taxation of "premium on bank deposits," which is the interest earned on bank deposits. However in reality the passive income is taxed at the source (at the rate of 15 percent).
Kyrgyzstan	10%	There are two categories of organizations that are eligible for certain exemptions: NCOs and non-commercial organizations having charity status (charitable organizations).	Gratuitous income, including membership and entry fees, humanitarian aid and grants, and gratuitously received assets (so long as used for statutory purposes) are not taxed.	Dividends received from participation in domestic organizations by taxpayers are not subject to profits tax. Interest payable to taxpayers is taxed at its source, through a withholding of 10 percent.

Moldova	0%	Tax Code exempts non-commercial organizations (NCO) from income tax.	Revenues obtained on as gratuitous basis (donations) are exempt from income tax, so long as receipt of donations is provided for in NCO's statutes.	There are no explicit exemptions for passive income.
Russia	20%	The Tax Code does not grant a tax exemption to NCO for profits tax liability. Certain legal forms of NCOs – namely, public organizations of disabled people and religious organizations – may obtain special treatment in relation to determining their taxable base for the profits tax.	Exemption applies to funds or other assets received in the form of gratuitous aid (assistance) in the manner determined by the Gratuitous Aid Law; assets received by a Russian organization on a gratuitous basis (with some conditions); assets obtained within the framework of special purpose financing, including grants; property received on gratuitous basis by state and municipal educational establishments as well as by non-state educational institutions; property (including financial funds) and property rights received by a religious organizations in connection with performing religious rites and ceremonies and for sales of religious literature and items of religious use. Following types of revenue are tax-exempt: entrance fees, membership fees, share contributions; deductions towards reserves for renovation and repairs of common property which are made by homeowners' association members, housing cooperatives, gardening, lawn and garden, garage, housing construction cooperatives or other specialized consumer cooperatives; property transferred to NCOs on the basis of wills; amounts of funding from the federal budget, budgets of constituent territories of the Russian Federation, local budgets, budgets of state extra-budgetary funds, assigned for performance of charter-based activities of NCO; funds and other property received for implementation of charitable	Not exempt.

			activities; joint contribution of founders of non-state pension funds; properly used receipts from owners to entities created by them; funds provided for trade union organizations in compliance with collective agreements for social, cultural and other events as provided for in their charter; funds obtained by NCOs for establishing endowments; funds obtained by NCOs engaged in implementing trust management of the assets making up endowment; funds obtained by NCOs of specialized endowment management organizations.	
Tajikistan	25%	Exempt organizations are enterprises owned by associations of the disabled, blind, and deaf (under certain conditions). Religious, charitable, budgetary, international, and inter-governmental non-commercial organizations, except for profit derived by them from entrepreneurial activities.	Gratuitous transfers, property, membership fees, and donations received by NCOs are exempt. In practice, grants are treated as gratuitous income and not taxed.	Tax on bank interest payable to resident enterprises is withheld at the source at the rate of 12 percent. The amounts of pre-tax interest are not included in the gross income of the recipient, and will not be the subject of further taxation. Dividends paid from one resident enterprise to another are not taxed.
Turkmenistan	8%	Organizations engaging in the rehabilitation of disabled persons; educational institutions, enterprises of public organizations of disabled persons; religious organizations and agricultural enterprises; and international, intergovernmental, interstate organizations are exempt (excluding the income received from entrepreneurial activity).	The financial means and other property received by a taxpayer in the context of targeted financing through budget allocations, state funds, grants, and other sources; targeted transfers to support non-commercial organizations in the conduct of their statutory activities, including membership dues, and charitable contributions, donations, and inheritable property; property (including works and services) received as a gift or on a gratuitous basis by government-financed and non-entrepreneurial legal entities, as well as	No exemptions. Profits received as dividends and other income received from share participation in other legal entities are taxed at a 15 percent rate that can be applied to both public associations and their enterprises.

			governmental organizations, local authorities, and self-government bodies; property (works and services) received in the context of projects and programs of international humanitarian, financial and technical assistance provided to Turkmenistan by foreign states or international organizations are not subject to tax.	
Ukraine	25%	The Profits Tax Law establishes a complex system of tax exemptions for various categories of non-profit organizations and institutions (NPOs) based on the type of income received.	Donations in cash or in kind are exempted when given to (a) government authorities and organizations funded by the state budget; (b) charitable foundations and public organizations; (c) religious organizations; and (d) professional associations and trade unions. Membership fees are explicitly exempt only for (a) pension funds and credit unions; (b) unions, associations, and other alliances representing members' interests; (c) building cooperatives, condominiums and other associations of housing co-owners; and (d) professional and trade unions. However, tax authorities' administrative practices tend to exempt membership dues for charitable and religious organizations, too, considering them the same as cash or in kind assets; received gratuitously. Grants are exempt for (a) government organizations funded by the state budget; (b) charitable and public organizations; (c) pension funds and credit unions; (d) other legal entities whose activities are not intended to generate profit; and (e) unions, associations, and other alliances serving members' interests.	The passive income of all types of NPOs is tax-exempt.

Uzbekistan	10%	NCOs are exempt from profits tax "except for income received from entrepreneurial activities."	NCOs are exempt from profits taxation on property received on a gratuitous basis, including state budget subsidies; assets (property and property rights) received on a gratuitous bases, provision of works and services, in the event when such provision occurred pursuant to a decision of the President of Republic of Uzbekistan or the Cabinet of Ministers of Republic of Uzbekistan; received grants; assets obtained by NCOs for the purpose of maintaining and carrying out their statutory activities which were designated to a specific purpose and or/received gratuitously.	No exemptions. The rate of tax on dividends and interest paid to legal entities is ten percent, and taxed at the source of payment.
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Comparative Charts: Entrepreneurial Activities

Country	Entrepreneurial Activity Allowed	Exemption of Entrepreneurial Income
Armenia	Public organizations may engage in entrepreneurial activities, but only through the establishment of separate commercial entities. Foundations may engage without establishing separate entities, but any such activities must correspond to the foundation's statutory goals.	No exemptions.
Azerbaijan	NCOs are permitted to engage in entrepreneurial activities only if they are indicated in their charters as related to their statutory purpose.	No exemptions.
Belarus	Non-commercial organizations may carry out entrepreneurial activities both directly and by way of other legal entities they have established. public associations and their unions may only carry out entrepreneurial activities by setting up a commercial organization or participating in their work.	No exemptions available, except for specifically exempt types of activities.
Georgia	Non-entrepreneurial organizations may engage in auxiliary entrepreneurial activities that serve to accomplish statutory purposes of the organization.	Charitable and religious activities are not regarded as economic activities. The income generated from charitable activities is exempt from profits tax.
Kazakhstan	NCOs are permitted to engage in entrepreneurial activity so long as it is not their primary activity.	NCOs are exempt from taxation of income received under a state social contract, and fees from condominium owners. The Tax Code exempts SSOs from taxation on income earned from all activities, whether or not those activities could be considered entrepreneurial.
Kyrgyzstan	NCOs are generally allowed to engage in entrepreneurial activities "to the extent it is necessary for implementation of their statutory goals".	There are no profits tax exemptions on income from entrepreneurial or economic activities for NCOs.

Moldova	NCOs and charities may engage in entrepreneurial activities related to statutory purposes. In order to engage in unrelated entrepreneurial activity, they must establish a separate enterprise. Such income is called "side-business".	NCOs are exempt on income received from related entrepreneurial activity. Side business (unrelated entrepreneurial activity) is prohibited with exception to associations of Blind, Deaf and Handicapped.
Russia	An NCO is permitted to engage in entrepreneurial activities under the condition that its charter-based activities remain the main activities. Entrepreneurial activities of NCOs should comply with two requirements: (1) these activities must help NCOs to achieve their statutory goals and increase its abilities to perform its statutory tasks; and (2) the general sphere of such activities must correspond to the statutory goals of the NCO.	No exemption for revenues earned from entrepreneurial activities by NCOs. Special deductions are in place for those organizations owned entirely by religious organizations. Such an organization may decrease its tax base by the amount transferred to the religious organization towards implementation of statutory activities. The organization may also receive profit obtained from sales of religious literature and objects of religious use.
Tajikistan	NCOs may engage in entrepreneurial activities "to the extent it is necessary for their statutory purposes".	The Tax Code contains no exemptions for revenues earned from entrepreneurial activities or economic activities.
Turkmenistan	Public associations may carry out entrepreneurial activity as stipulated by their charters, but profits are fully taxed.	No exemption.

Ukraine	Public organizations are still prohibited from directly engaging in any form of economic activity, except through a specially created business subsidiary. Tax law, on the other hand, does not prohibit NPOs to carry out economic activities and moreover exempts "primary" economic activities from profit tax. Charities are expressly allowed to engage in economic activities aimed at achieving the charity's statutory purposes.	The exemption for "primary" activities operates to exempt income from economic activities if they promote the "principles and ideas" of the NPO; are closely related to the NPOs primary activities; and the price charged is below market.
Uzbekistan	NCOs may engage in entrepreneurial activities "within the limits corresponding to their statutory purpose".	In practice, all incomes obtained by NNOs from commercial or investment activities are deemed to have been obtained as the result of entrepreneurial activities and, consequently, taxed with profits tax.

Comparative Charts: Charitable Deductions

Country	Business Donations	Individual Donations
Armenia	Legal entities may deduct up to 0.25% of their gross income for monetary and/or in-kind donations made to NCOs, libraries, museums, public schools, asylums, residential homes, orphanages, and psycho-neurological and tuberculosis treatment infirmaries and hospitals.	Individuals can claim deductions of up to 5% of their taxable income for the year for donations made to public and religious organizations; political parties; condominiums; organizations which do not pursue a profit-making goal and operate exclusively for the following purposes: religious, charitable, scientific, [conduct of] tests for purposes of public security, protection of the environment, development and promotion of literature, culture and education, protection of consumers rights, promotion and organization of amateur sports, protection of human rights, rights of women, children, and the elderly, libraries, museums, public schools, boarding schools, nursing homes, and orphanages, psychiatric and tuberculosis treatment infirmaries and hospitals
Azerbaijan	No deductions for contributions to charitable organizations.	No deductions for contributions to charitable organizations.
Belarus	No deductions available.	No deductions available.
Georgia	Amounts donated to charitable organizations by a business entity are deducted from the total incomes of the entity up to eight percent of its annual taxable income.	No deductions.
Kazakhstan	The taxable income of a taxpayer (legal entity) can be decreased by up to three percent of the gross taxable income by the value of any property (including works and services) gratuitously transferred to an NCO or SSO, including sponsorship aid.	No deductions.

Kyrgyzstan	Gratuitously transferred assets, including money and property (at its balance sheet value) to charitable organizations, as well as to organizations of culture and sports regardless of the form of ownership in the course of the tax year, in an amount not exceeding ten percent of the taxable income of the taxpayer, provided that those assets are not used to the benefit of the taxpayer that transfers them, shall be deducted from gross annual income.	No deductions.
Moldova	Resident taxpayers may deduct donations for charitable purposes up to 10% of taxable income.	Resident taxpayers may deduct donations for charitable purposes up to 10% of taxable income.
Russia	Generally, no deductions for legal persons are available (except for certain organizations of the handicapped and religious organizations).	Individuals may deduct amounts contributed to certain types of organizations (budget financed organizations of culture, science, healthcare, etc.; religious organizations) by up to 25% of taxable income.
Tajikistan	Legal entities may deduct up to 5% of their taxable income for payments to "charitable organizations, and for the purpose of carrying out charitable activities."	Individuals may deduct up to 5% of their taxable income for payments to "charitable organizations, and for the purpose of carrying out charitable activities."
Turkmenistan	No deductions.	No deductions.
Ukraine	Legal entities may deduct donations made to NPOs, in an amount ranging from 2% to 5% of taxable income. Legal entities can deduct from their taxable income an additional from two to ten percent for donations to museums, NPOs of culture, science and art engaged in the protection of Ukraine's cultural heritage. These donations count separately from the above-mentioned five percent threshold. A ten percent deduction may also be taken on donations to public associations of the disabled, who are victims of the nuclear reactor accident in the Chernobyl Nuclear Power Plant.	Donations in cash or in kind by natural persons in amounts ranging from 2 to 5 percent of the donor's taxable income for the preceding year are deductible for donations to all types of registered NPOs

Uzbekistan	The taxable profits of legal entities may be decreased by the amount of: contributions into ecological, health promotion and charitable foundations, institutions of culture, public education, health care, labor and social protection of population, physical culture and sports, bodies of citizens self-governance, by an amount not exceeding one percent of the taxable income of the donor; transfers made from profits of enterprises in ownership of religious and public associations (except for trade unions, political parties, and movements), and charitable foundations, designated to pursue the statutory activities of such associations and foundations.	No deductions for donations are available to individual donors.
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Comparative Charts: VAT

Country	General VAT Rate	Registration Threshold	Zero and Preferential Rates	Exempt Organizations	Exempt Transactions
Armenia	20%	A legal entity may voluntarily join the VAT system, even if it is not defined as a taxable person (i.e. simplified tax payers or presumptive payment payers)	Zero rating applies to certain international transactions only. No reduced rates apply.	Few VAT exemptions other than those privileges granted by international treaties or agreements. VAT privileges apply if used within the framework of 'humanitarian assistance and charity programs'.	Most educational fees, sales of most academic or scientific materials, scientific and research work, care services, sales of newspapers and magazines, sales of religious items to and by religious organizations, goods related to the treatment and preparations of medical assistance.
Azerbaijan	18%	Obligated to register if taxable operations in any proceeding 3 month period exceeds 22500 manat.	Zero-rating applies to purchases of goods, performances of projects, and the rendering of services (funded by) gratuitous financial assistance (grants) received from abroad, as well as importation as such.	No exemptions from VAT linked to the non-commercial identity of an organization.	Various exemptions including turnover related to sales and purchase of mass media products, editorials, publishing and printing activities, connected with production of printed mass media products; likewise connected with schoolbooks, children's literature and publications of national importance, and ritual services by funeral bureaus and cemeteries.

Belarus	18%	No threshold specified.	Zero per cent rate applies to exported goods; and the work and services related to accompanying, loading, reloading and other similar jobs related to the export of goods. Ten per cent rate applies to sales of Byelorussian crop production (except for sales of flowers and decorative plants), animal farming (except for fur farming), fish farming and beekeeping; to food products and goods for children delivered to and/or sold on the territory of Belarus, as set out in the list approved by the President of the Republic of Belarus.	Certain specific public associations are exempt from VAT. Thus, for the purpose of developing creative activities and enhancing the material base of creative associations, the union of creative association “the Byelorussian confederation of creative unions” and other creative unions, included in a specific decree, are free from the payment of VAT.	Exemption applies to the following: goods and financial resources (including those in foreign currency) that are related to foreign grants or international technical assistance; medical care services for the sick, handicapped and elderly; services of preschool institutions; provision of foodstuffs by canteens at various educational and preschool facilities, healthcare institutions; services in the field of education by enterprises accredited (attested) under the established procedure; goods (except for excised ones), acquired using foreign gratuitous assistance; goods (except for excised ones) imported as gratuitous technical assistance for joint scientific-research works.
Georgia	18%	Obliged to register if turnover exceeds GEL 100,000 threshold for a 12 month period.	Zero-rated goods include: exports; goods/services for official use of foreign diplomatic representations; tourism; services and supplies related to international transportation; gold transferred to the National Bank of Georgia.	No exemptions linked to the non-commercial identity of an organization.	Import of humanitarian aid and goods having the status of grants; educational services; import of computer engineering, equipment and chemicals necessary for scientific and educational activities; medical and care service; art and sport services; medical (pharmaceutical) products; invalid wheelchairs, iodized salt, x-ray films, insulin syringes, diagnostic test systems; baby food; diabetic foodstuffs.

Kazakhstan	12%	Legal and natural persons are obliged to register as taxpayers if their annual VAT-taxable turnover exceeds 30,000 times the monthly payment unit.	A zero-rating applies to exports, international transportation, and certain goods produced under extraction contracts.	NCOs are exempt with respect to provision of services for protection and social welfare of children, the elderly, war and labor veterans, and disabled persons. Associations of disabled persons enjoy blanket exemptions from VAT (subject to certain conditions).	Enumerated services provided in the fields of culture, sciences, and education; medical services; services pertaining to the management, maintenance, and operation of residential buildings; imported goods using funds from grants provided under the auspices of states, state governments, and international organizations; goods imported for humanitarian and charitable purposes.
Kyrgyzstan	12%	An individual entrepreneur or legal entity carrying out economic activity must register as VAT payer if over a period of 12 successive months, or over a period of less than 12 successive months, total turnover of taxable supplies of goods, works and services on the territory of the Kyrgyz Republic exceeds the registration threshold of 4,000,000 soms (approximately 100 000 USD).	Export of works and services are considered as VAT-exempt supplies. There is a zero-rate available for exports of certain goods, and for supplies connected with international transportation.	Supplies provided by NCO for payment that does not exceed the cost of such supplies are exempt from VAT, if they are supplies of goods, works, and services provided as a social welfare and for protection of children or indigent citizens of advanced age, and in the sphere of education, medicine, science, culture, and sports. Supplies of services by charitable organizations for charitable purposes shall be VAT-exempt.	Import of the following goods is exempt: goods provided for rendering assistance when addressing consequences of natural disasters and armed conflicts; goods imported as humanitarian assistance, grants under the procedure established by the Government of the Kyrgyz Republic; educational materials and school accessories, scientific publications; baby food; specialized goods for disabled persons.

Moldova	20%	Obligated to register if carrying out entrepreneurial activity and turnover in any consecutive 12-month period exceeds 300,000 Leu.	5% rate for imported natural and liquefied gas; 8% rate on bread and milk products; 0-rate for exports; international passenger and cargo transportation; goods and services supplied for international organizations under agreements with Republic of Moldova.	No blanket exemptions for NCOs. Enterprises of Associations of the Blind, Deaf, and Handicapped exempt on materials imported for industrial purposes; educational institutions exempt on goods/services allocated for educational purposes; cafeterias of schools, hospitals, and some other institutions exempt on goods sold; charitable organizations exempt on food services for poor and elderly; religious organizations exempt on rituals and ceremonies.	Inter alia, groceries and other goods for children in accordance with the list provided in the Law on Budget for the respective year; services rendered by the members of colleges of advocates; services related to care for the sick and elderly; medical services, except for cosmetic procedures and medical supplies; vouchers to health resorts, rehabilitation institutions, recreation institutions, touring and excursion vouchers; technical means for prophylactics of disability and rehabilitation of the disabled; books and periodicals, except for those relating to advertising or of an erotic character, and services relating to the publishing of books and periodicals. Exempt imports: goods for rendering assistance after natural disasters, armed conflicts, and other public emergencies; humanitarian assistance-related goods (designated as such by the Government); goods in transit via the territory of Moldova.
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<p>Russia</p>	<p>18%</p>	<p>No general registration threshold for VAT exists.</p>	<p>The zero tax rate is used for taxation of export of goods, works and services including international transportation, space activities, extraction of precious metals; and in relation to goods, works and services for official and private use of by diplomatic representations. The ten per cent tax rate applies to sales within the territory of the Russian Federation as well as in case of import within the territory of the Russian Federation of the following goods: food products; goods for children; periodic publications excluding periodic publications of advertising or erotic character; books, related to education, science and culture, excluding books of advertising and erotic character; and medical goods of domestic and foreign origin.</p>	<p>Organizations and individual entrepreneurs are exempt from calculation and payment of tax if in the previous three calendar months the amount of revenue from sales of goods (works, services) by these organizations and individual entrepreneurs does not exceed a total of two million rubles. Exemption from VAT (except import VAT) is available to organizations taxed under the "simplified taxation system" (STS).</p>	<p>Sales of goods, works and services with some exceptions, produced and sold by authorized public organizations of disabled persons; transfer of capital assets, non-material assets and other property to NCOs for conduct of their primary statutory activities; transfer of goods (performance of works, provision of services) free of charge within the framework of charitable activities; services of pre-school institutions; foodstuffs produced and provided directly by certain types of catering organizations, including at educational facilities; sale of objects of religious designation and religious literature and provision of services of religious nature; goods (works, services) produced and supplied by qualifying public organizations of handicapped persons; gratuitous provision of goods (works, services) as charity; goods (except for excised goods and minerals) imported as gratuitous aid to the Russian Federation.</p>
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Tajikistan	20%	The obligation to register arises when a person engaging in entrepreneurial activities has carried out in the course of the preceding twelve calendar months taxable operations in an amount exceeding 200,000 Tajik Somoni.	No decreased rates apply. Zero-rating is available only in connection with exports, international transportation, and supply of gold to the National Bank of Tajikistan.	Supplies of goods, works and services by associations of the disabled, blind and deaf, as well as enterprises owned by such associations, are exempt from VAT, provided that two conditions are met: (i) the disabled, blind, and/or deaf constitute no less than 50 percent of their employees; and (ii) no less than 50 percent of the overall remuneration (including in kind) is allocated to the disabled, blind, and deaf.	Sale, transfer or lease of the real property, with certain limitations as regards hotels and resorts and newly built housing; the provision of religious services by religious organizations; the provision of medical services; the provision of educational services for children and teenagers in clubs, workshops (including for fitness and sports), and art studios, as well as childcare services in preschool institutions; and import of goods, performance of works and services as humanitarian assistance, as well as import of goods to be transferred to the state bodies of the Republic of Tajikistan and public organizations for the purpose of eliminating consequences of natural calamities, accidents and catastrophes.
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<p>Turkmenistan</p>	<p>15%</p>	<p>No minimum registration threshold - all legal and natural entities falling within the definition of taxpayer are VAT taxpayers.</p>	<p>Zero rate is applied to the following taxable operations: export of goods produced in-house as well as acquired, excluding natural (associated) gas, oil, and oil and gas products; international conveyance of passengers and goods of legal and natural entities; transportation, loading, unloading, transfer of exported goods, services, or transit of foreign goods across the territory of Turkmenistan; goods, works, and services acquired for official use by foreign diplomatic or equivalent representative offices and international organizations; goods, works and services for performing oil works for entities acting as contractors and subcontractors under the Law of Turkmenistan "On Hydrocarbon Resources,"; and sales of in-house agricultural goods.</p>	<p>No blanket exemptions for NCOs. Exempt are gratuitous transfer of property by decision of governmental organizations, local authorities or self-government bodies; goods (or free-of-charge works or services) for non-entrepreneurial legal entities and governmental organizations, local authorities, and self-government bodies; goods (or free-of-charge works or services) for charitable organizations; goods (or free-of-charge works or services) provided as humanitarian aid and/or charity; goods, works, and services provided by non-entrepreneurial legal entities, and governmental organizations, local authorities, and self-government bodies, bodies of state power and government bodies, local executive and self-government bodies, without the purpose of deriving profits.</p>	<p>Goods, works and services provided within the framework of projects and programs of international humanitarian, financial and technical assistance and credits (grants) provided to Turkmenistan by foreign states or international organizations and natural entities. VAT exemptions include the following taxable operations: care for sick, disabled and elderly persons, and services for rehabilitation of disabled persons; educational services; goods produced by training-and-manufacturing enterprises of association of blind and deaf persons and other public organizations of disabled individuals.</p>
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<p>Ukraine</p>	<p>20%</p>	<p>Any person entering into taxable transactions involving the sale of goods or services of an aggregate value exceeding 300,000 UAH (approximately 40,000 US dollars) for any period of the preceding twelve calendar months is obligated to register as a VAT taxpayer.</p>	<p>A zero-rate applies mainly to exported goods, work(s) and services, and international passenger and freight transportation. Sales by subsidiaries established by organizations serving disabled individuals (except gambling and excised items) are also subject to a zero rate.</p>	<p>The Profits Tax Law exempts NPOs from VAT payment on gratuitous imports of goods and services for charitable purposes. NPOs of disabled persons are exempt from VAT on sales of their goods and services, except for sales of excise goods, gambling services, and purchased goods. Such organizations may also claim a zero-rate VAT and seek a rebate of any VAT paid in connection with purchasing goods or services). Any VAT payments are also returned to members of the International "Soyuz Chernobyl" Organizations and of the National "Soyuz Chernobyl" Public Organization of Ukraine, so long as over 75 percent of the organization's employees are victims of the Chernobyl disaster.</p>	<p>VAT is not levied on charitable aid or on free-of-charge transfers of goods or services to charitable organizations, other organizations listed in the NPO Registry (for example, religious), state or municipal authorities, or state or locally owned organizations, institutions, or enterprises. In addition, VAT is not levied on the free transfer of goods or services to beneficiaries of charitable aid recognized as such by law. Exempt are inter alia sale through subscription and delivery of print media; sale of books, school notebooks, school textbooks, and other educational materials produced in Ukraine; payment of tuition for primary, middle, or higher education in properly accredited institutions; sale of specialized goods for the disabled; healthcare services rendered by properly accredited institutions; and the maintenance of homes for the elderly and disabled.</p>
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Uzbekistan	20%	No turnover threshold.	Zero rating applies only to exports, to fuel and lubricants for agricultural enterprises, and to supplies for diplomatic establishments.	NCOs are exempt from the payment of VAT, except when they have turnover from sale of goods (works, services) which constitute entrepreneurial activities. In addition, legal entities eligible for the simplified regime of taxation are exempt from VAT.	Certain transactions are exempt from VAT, including: services (activities) provided by state bodies, citizens' self-governing bodies and other authorized organizations and on which government's fee and dues are imposed; supplies of goods (works, services) provided by legal entities owned by public associations of disabled persons, the Nuronium Foundation, and the Chernobyl Recovery Workers of Uzbekistan Association, where disabled employees account for at least 50 percent of the total number of employees, except for turnover from supplies of intermediary, trading, logistical, supply and distribution services; supplies of goods (works, services) acquired by legal entities through loans (credits) provided by international and foreign governments' financial organizations under international agreements with the Republic of Uzbekistan or goods (works, services) acquired through grants.
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Comparative Charts: Other Taxes

Country	Property, Real Estate, Land Tax	Other
Armenia	Property tax is levied on buildings and means of transportation on an annual basis. There are no special exemptions regarding property tax for NCOs.	Decreased fees apply to NCOs for state registration and registration of amendments to charters; and legal actions involving protection of an entity's name.
Azerbaijan	Property tax and land tax apply irrespective of an organization's status as commercial or non-commercial. Entities exempt from property tax include, inter alia, public organizations of the handicapped and budget-financed institutions.	Excise, road and other taxes apply irrespective of an organization's status as commercial or non-commercial.
Belarus	NCOs are payers of real estate tax and land tax. The following are exempt from property tax: sites owned by organizations and used for social and cultural purposes; capital assets of public associations "the Byelorussian Society of the Handicapped", "the Byelorussian Society of the Deaf", "the Byelorussian Society of the Blind" and subsidiaries of these legal entities, providing that handicapped people constitute not less than 50 per cent of the employees of the entities and their subsidiaries over the tax period; faith-related buildings, including unfinished construction, belonging to religious organizations (associations) duly registered, and other capital assets of religious organizations. Land tax is not levied in the following cases: the land parcels were provided for the purpose of pursuing statutory activities to organizations engaged in social and cultural activities, which receive subsidies from the Republic or a local budget; parcels of land are used by religious organizations; parcels of land are used by organizations carrying out scientific activities or providing for such activities.	Public associations, including "the Byelorussian Society of the Handicapped", "the Byelorussian Society of the Deaf", "the Byelorussian Society of the Blind" in which handicapped people constitute not less than 50 per cent of the employees, are free from mandatory payments to the Republic fund supporting producers of agricultural products, food and agrarian science. Public association of the handicapped, legal entities they set up and their subsidiaries, in which handicapped people constitute not less than 50 per cent over the reported tax period, are free from the payment of taxes on the purchase of motor vehicles. The requirement of the mandatory minimum payment of social insurance is not applied to salaries and wages of employed handicapped individuals; individuals working for public and religious organizations (associations) or at organizations engaged in agricultural production, where this type of activity constitutes over 50% per cent of the overall volume of production.
Georgia	Property of "non-entrepreneurial organizations" is exempt from enterprise property tax, except for property used for entrepreneurial activities. Various land tax exemptions exist with potential benefits to non-commercial organizations.	Individual income tax: Tax rate was increased from 12% to 25 % since 01.01. 2008. For individuals who receive remuneration form grants, the 12% rate was maintained until 01.01. 2011.

Kazakhstan	Property is subject to property tax, land tax, and dues payable at registration of the rights thereto. NCOs as well as SSO and certain other organizations enjoy a reduced property tax rate of 0.1 percent (compared with the standard rate of one point five percent). They also pay land tax at a reduced 10% rate of the standard assessment. Religious organizations enjoy full exemptions from property and land taxes.	Payments from the funds of grants provided under the auspices of states, state governments, or international organizations are not subject to social taxes. A decreased social-tax rate (4.5 percent) applies to specialized organizations employing movement-, hearing-, speech-, or vision-impaired individuals, if the organization satisfies some conditions. Certain NCOs enjoy exemptions from payment of certain state fees and decreased registration fees.
Kyrgyzstan	No exemptions from the property tax apply to NCOs, though properties of associations of disabled persons of the first and second groups, as well as Kyrgyz organizations of blind and deaf people, where disabled persons, blind and deaf people, compose not less than 50 percent of the total employed and their salaries compose the sum not less than 50 percent of the total fund of labor remuneration. The list of these enterprises shall be determined by the Government of the Kyrgyz Republic. Tax Code exempts from the land tax, inter alia, land of organizations of disabled persons, war participants and similar categories of persons and lands of the community of blind and deaf people.	Charitable organizations are fully exempt from sales tax on any activity
Moldova	Exempt from real property tax are the Association of the Blind, Association of the Deaf, and Association of the Handicapped as well as enterprises established by those organizations to fulfill their statutory purposes; and religious organizations, with respect to real property used for religious ceremonies. Exempt land includes land used by nature parks, preserves, and botanical gardens; land used by science and research organizations and institutions of agriculture and forestry for scientific and educational purposes; land used by institutions of culture, art and cinematography, education, healthcare, sports and recreation, historic, natural and cultural monuments, restored lands for 5 years.	Local authorities have the right to exempt public-benefit public associations from local taxes, though such practice is uncommon.

<p>Russia</p>	<p>As a general rule NCOs are not exempt from corporate property tax or land tax. Religious organizations and all-Russia public organizations of disabled persons have the tax benefit concerning the property used for implementation of charter-based activities. Tax benefits are also provided to organizations and institutions created by all-Russia public organizations of disabled persons, in relation to property used for advancement of goals provided for in the Tax Code. This benefit is applicable to organizations among the members of which disabled persons and their lawful representatives amount to no less than 80 per cent. Tax exemptions are also provided for organizations whose charter capital consists entirely of contributions of the above mentioned all-Russia public organizations of disabled persons, but only when the average number of disabled persons among the employees amounts to no less than 50 per cent, and their share in the remuneration fund is no less than 25 per cent.</p>	<p>A regional tax, the transport tax , is enacted by the constituent territories of the Russian Federation. The Tax Code does not provide for any tax exemptions for NCOs.</p>
<p>Tajikistan</p>	<p>Exempt from this tax are the immovable property, including apartment house and other buildings, structures and constructions, in which live Heroes of Socialist Work, Heroes of Tajikistan, Heroes of Soviet Union, participants of Great World War II of 1941-1945, and persons equal to them. A number of types of land are exempt from land tax, such as reserves, national parks and arboreta, botanical gardens; the grounds used by budgetary organizations; the grounds of organizations on which there are the buildings protected by the state as monuments of history, culture and architecture and those directly used for scientific and educational purposes, for testing of agricultural crops, scientific pilot farms, research establishments and educational institutions involved with agricultural and forestry structure.</p>	

Turkmenistan	<p>The following types of organizations are exempt from paying property tax: investment pension funds; enterprises of public organizations of disabled persons; public associations; religious organizations; educational institutions; healthcare institutions and enterprises; and agricultural enterprises. Exempt from taxation types of property, if used exclusively in the sphere of science, education, rehabilitation of disabled persons, and environmental protection; sport complexes, stadiums and other sports facilities and constructions as well as sports equipment and goods; buildings and facilities of children's entertainment centers as well as other property used for entertaining children, including park amusements, game-playing machines, etc., as well as property used in the sphere of tourism, and some other uses.</p>	
Ukraine	<p>There is no general property tax in Ukraine. The following organizations are exempt from land tax: children's health care institutions; public organizations of disabled individuals and subsidiaries established by such organizations; registered charitable organizations that do not carry out economic activities; and registered religious organizations that do not carry out economic activities.</p>	<p>NPOs that are plaintiffs on behalf of other persons, Ukrainian and international associations of Chernobyl victims, NPOs of disabled individuals, and some other nonprofits are exempted from court filing and notary fees. NPOs are not exempt from the advertising tax (0.1 percent and 0.5 percent of fees) or the entertainment tax (3 percent of revenues from any concert, exhibition, festival or similar event, except those recognized to be charitable by local government agencies).</p>
Uzbekistan	<p>The following legal entities are exempt from property and land tax: organizations specializing in health care, physical education, provision of social services, public education, culture and the arts; legal entities owned by public associations of disabled persons, the Nuroniy Foundation, and the Chernobyl Recovery Workers of Uzbekistan Association, in which disabled employees account for at least 50 percent of the total number of employees, veterans of and civilian workforce during the war of 1941-1945, excluding legal entities engaged in trading, intermediary, logistical, supplying, and sales activities; NCOs, unless they are engaged in entrepreneurial activities; legal entities entitled to the simplified tax process.</p>	<p>NCOs are exempt from water resources use tax, tax for development and improvement of social infrastructure, mandatory contributions to the extra-budgetary Retirement Fund and the National Road Improvement Fund, unless they engage in entrepreneurial activities. Legal entities owned by public associations of disabled persons, the Nuroniy Foundation, and the Chernobyl Recovery Workers of Uzbekistan Association, where disabled employees account for at least 50 percent of the total number of employees, veterans of and civilian workforce during the war of 1941-1945, except legal entities engaged in trading, intermediary, logistical, supplying, and sales activities, shall be exempt from tax for development and improvement of social infrastructure.</p>