

U.S. INTERNATIONAL GRANTMAKING

Country Information

Slovakia

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I. Summary

A. *Types of Organizations*

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

- Associations;
- Foundations;
- Non-Investment Funds; and

- Not-for-Profit Organizations Providing Publicly Beneficial Services (NPOs).

Other forms of NGOs, which remain outside the focus of this Note due to their limited interactions with foreign grantmakers, include religious organizations, political parties, political movements, trade unions, and associations related to certain professions.

B. Tax laws

As of January 1, 2004, NGO income from donations and inheritance is generally exempt from income tax. Other income from statutory activities, including membership fees, is also generally exempt.

Certain NGOs are generally exempt from donations tax: those whose their statutory activities relate to health care, humanitarian assistance, social care, the operation of schools and other educational activities, science, physical fitness and sports for children and youth, or the protection of the environment.

Slovakia imposes a VAT, with a standard rate of 20% and a reduced rate of 14%. Certain transactions are exempt from VAT, including those relating to educational and scientific services and goods, health care services and goods, and social care services.

Finally, although taxpayers cannot generally deduct their donations to NGOs, natural and legal persons may assign up to 2% of their income tax to certain NGOs engaging in publicly beneficial activities.

II. Applicable Laws

- Act No. 46/1992 Constitution of the Slovak Republic, as amended, as published in full text by Act No. 135/2001 (“Constitution”)
- [Act No. 83/1990 on Associating of Citizens \(“Law on Associations”\)](#)
- [Act No. 34/2002 on Foundations and on the Change of Civil Code, as amended \(“Law on Foundations”\)](#)
- [Act No. 147/1997 on Non-Investment Funds \(“Law on Non-Investment Funds”\)](#)
- [Act No. 213/1997 on Non-Profit Organizations Providing Generally Beneficial Services, as amended by Act No. 35/2002 \(“Law on NPOs”\)](#)
- Act No. 13/2002 on Conditions of Transformation of Some Budgetary Organizations and Subsidiary Organizations to Certain Non-Profit Organizations Providing Generally Beneficial Services, as amended by Acts No. 457/2002 and 429/2003, amending Act. No. 92/1991 on Conditions of Transfer of the State Property to Other Persons, as amended ("Law on Transformation")
- Act No. 595/2003 as amended by other acts on Income Taxes (“Income Tax Law”)
- Act No. 554/2003 on the Tax on the Transfer of Real Estate
- Act No. 222/2004 on the Value Added Tax, as amended by Acts No. 350/2004, 351/2004, and 340/2005 (“VAT Law”)

- Act No. 365/2004 Coll. of 20 May 2004, effective from 1 July 2004, which also amends and supplements certain other Acts (Anti-Discrimination Act)

III. Relevant Legal Forms

A. General Legal Forms

Associations

Associations are membership organizations created by citizens to pursue common interests. Three citizens are required to found an association ([Article 6 \(1\), Law on Associations](#)), and legal entities may be members of an association ([Article 2\(2\), Law on Associations](#)). No limitations are placed on the ability of foreign natural or legal persons to participate as members of associations.

Within broad parameters, associations are permitted to engage in both mutual benefit and public benefit activities ([Article 4, Law on Associations](#)). Associations are, however, prohibited from engaging in functions reserved to the government or public administration ([Article 5, Law on Associations](#)), and they are banned from being established for military activities or for purposes violating the human rights of others.

The Law on Associations does not apply to political parties, political movements, churches and religious organizations, and commercial associations and companies of several kinds; all these are regulated by special laws.

Foundations

A foundation is an asset-based organization serving one or more public benefit purposes as defined in the law ([Article 2\(3\), Law on Foundations](#)). Any legal or natural person may establish a foundation ([Article 4\(1\), Law on Foundations](#)). Foundations must maintain an endowment of at least SKK 200,000 (\$4,500), and the minimal contribution of a founder to the endowment is SKK 20,000 (\$450). The minimal endowment and minimal endowed contributions must take the form of funds or real estate ([Article 3\(2\), Law on Foundations](#)).

A foundation may also create and operate a special associated fund without legal personality to support a public benefit purpose, based on an agreement with another person or on its own decision.

Non-Investment Funds

A non-investment fund (“NI fund”) accumulates assets for publicly beneficial purposes, as defined in the law, or for humanitarian assistance benefiting individuals whose lives are at risk or who have suffered from a natural disaster ([Article 2, Law on Non-Investment Funds](#)). The NI fund’s governing documents should indicate those persons

who are eligible to receive benefits from the fund or the geographic region in which benefits will be distributed ([Article 6, Law on Non-Investment Funds](#)). Any legal or natural person may establish an NI fund ([Article 3, Law on Non-Investment Funds](#)) with a minimum founder's contribution of at least SKK 2,000 ([Article 7, Law on Non-Investment Funds](#)).

Not-for-Profit Organizations Providing Publicly Beneficial Services (NPO)

NPOs are a special form of NGO under Slovak law that may be established by legal or natural persons or by a government agency to provide public benefit services as defined in the law to the public on equal terms and conditions. NPOs may not use any profit generated to benefit their founders, members of their bodies, or employees.

Under the Law on Transformation, the ministries of the Slovak Government and other central administration bodies may select subsidiary governmental organizations to be transformed into NPOs. These authorities must submit a transformation proposal to the Ministry of Management and Privatization of State Property. If the proposal is approved, the proposing central administration body may endow property to the newly founded NPO. The NPO can also receive property endowed by other interested parties: employees of the original governmental organization, medical and social care professionals, and churches and other legal persons active in health care, social care, or humanitarian assistance, either on their own or through a NPO established by them. The rights, obligations and liabilities of the original governmental organization are then transferred to the new NPO.

B. Public Benefit Status

Foundations by law must serve public benefit purposes. These purposes include the development and protection of spiritual and cultural values; humanitarian objectives, including the protection of human rights or health; protection and development of the environment; preservation of natural values; the development of science, learning and sports; and individually targeted humanitarian assistance for individuals or groups who are in mortal danger or who were afflicted by a natural disaster ([Article 2\(3\), Law on Foundations](#)).

A similar although somewhat shorter list of enumerated activities exists for **NI funds** ([Article 2\(2\), Law on Non-Investment Funds](#)). It does not include explicitly support of science.

NPOs must render public benefit services. Permissible activities include health care, social assistance, humanitarian care, development of spiritual and cultural values, protection of human rights and basic freedoms, education (including physical education), science, development, technological and information services, environmental preservation, health protection, regional employment and development, and social welfare services including providing, administering, maintaining, and reconstructing dwellings ([Article 2\(2\), Law on NPOs](#)).

The concept of public benefit does not appear in the Law on **Associations**, but as discussed below, it is interwoven to certain degree in the tax laws defining benefits based upon public benefit activities (See also Article 48, Income Tax Law).

IV. Specific Questions Regarding Local Law

A. *Inurement*

There are few restrictions on the ability of **associations** to distribute assets or income to members, employees, or others associated with the organizations. There are no provisions limiting administrative costs, reimbursement or compensation rates, or the distribution of remaining assets upon dissolution of an association. Therefore, when making an equivalency determination of an association, it is essential that U.S. grantmakers ensure that the a prospective grantee's governing documents explicitly prohibit private inurement.

The Law on Foundations requires that **foundations** pursue public benefit purposes, and the activities of the foundation must be in accordance with the public benefit purpose of the foundation ([Article 2\(7\), Law on Foundations](#)). Board members of foundations do not receive any remuneration for their services, but they may be reimbursed for travel and related expenses within the limits established in separate regulations ([Article 21\(4\), Law on Foundations](#)). With the exception of assistance related to natural disasters, the assets of a foundation may not be distributed to a founder, member of the board of directors or other body of the foundation, or any relatives thereof ([Article 33\(4\), Law on Foundations](#)).

Money or assets of **NI funds** may not be given to a founder or board member or any close relative thereof, or to a member of the body of a legal entity that made a donation to the NI fund ([Article 23\(5\), Law on Non-Investment Funds](#)). The administrative expenses of a NI fund may not exceed 15% of the fund's total expenditures, not including expenses for registration, fundraising, auditing, and verification of proper use of grants ([Article 21\(4\), Law on Non-Investment Funds](#)). Board members must perform their duties without any remuneration, except for reimbursement of travel and other expenses within limits established by separate legislation ([Article 17\(5\), Law on Non-Investment Funds](#)).

The property of an **NPO** may be used only in accordance with the terms and limits set forth in its governing documents ([Article 31\(1\), Law on NPOs](#)). The earnings of an NPO may not be used for the benefit of its founders, members of management, or employees ([Article 2\(1\), Law on NPOs](#)). Participation on the board of directors and supervisory board of an NPO may not be compensated, except for reimbursement of travel and related expenses pursuant to limits in separate legislation ([Articles 21\(5\) and 26\(3\), Law on NPOs](#)).

B. Proprietary Interest

The Law on **Associations** contains no explicit conditions regarding on-going or residual proprietary interests of members or donors. In fact, members of mutual benefit associations can retrieve their contributions and membership dues when leaving the association if the organization's governing documents do not provide otherwise. Therefore, U.S. grantmakers undertaking equivalency determinations of associations should ensure that a prospective grantee's governing documents prohibit proprietary interests.

The laws regarding **foundations**, **NI funds**, and **NPOs** are all generally interpreted to preclude the existence of any proprietary interests in the organization's property. In certain cases, however, donors may have the ability to supervise the use of their donations. A **foundation** may not use donations which exceed SK10,000 (US\$220) for purposes different from those stipulated by the donor without the latter's consent ([Article 32, Law on Foundations](#)). Similar provisions, but without any threshold limit, exist regarding donations to **NI funds** ([Article 23\(2\), Law on NI funds](#)) and **NPOs** (Article 31, Law on NPOs). These laws do not give a donor a right of reversion to property used contrary to his wishes. However, if there is no possibility of pursuing the original purpose of the donation, civil procedures are available to reclaim an unused or improperly used donation.

C. Dissolution

There are few rules governing the dissolution of **associations**. It is generally permissible for an association, upon dissolution, to distribute assets to members (or any other persons) as determined by the body specified in the association's governing documents. It is therefore important for U.S. grantmakers undertaking equivalency determinations to review the governing documents of a prospective grantee to ensure that such liquidating distributions are not permitted.

The endowment of a dissolving **foundation** must be transferred to another foundation ([Article 18\(9\), Law on Foundations](#)). Remaining assets can be transferred to another foundation or to the municipality where the foundation is located. If the municipality accepts the assets, it must use them for a public benefit purpose ([Articles 17 and 18, Law on Foundations](#)).

The assets of a liquidated **NI fund** may only be transferred to another NI fund or foundation ([Article 14\(3\), Law on Non-Investment Funds](#)).

The assets of a dissolving **NPO** must be distributed to another NPO or to a foundation ([Article 17, Law on NPOs](#)).

D. Activities

1. General Activities

NGOs, in general, may not be established for the purpose of undertaking economic activities, but they may engage in them, subject to limitations based on the legal form, to supplement their statutory activities.

Associations may engage in both mutual benefit and public benefit activities.

In contrast, **foundations**, **NI funds**, and **NPOs** are statutorily required to pursue public benefit activities.

2. Public Benefit Activities

All forms of NGOs may engage in public benefit activities.

By law, **foundations**, **NI funds** and **NPOs** must primarily engage in public benefit activities. Each of the applicable laws describes public benefit activities differently, though there is significant overlap in the enumerated activities ([Article 2\(3\), Law of Foundations](#); [Article 2\(2\), Law on Non-Investment Funds](#); [Article 2\(2\), Law on NPOs](#)).

The Law on Foundations lists as public benefit purposes development and protection of spiritual and cultural values; promotion and protection of human rights or other humanitarian goals; preservation of natural values; protection of health; protection of the rights of children and youth; development of science, education, and physical education; and individually targeted humanitarian aid to natural persons or groups who are in mortal danger or who need immediate help after a natural disaster.

The Act on NI funds adds to this list provision of social care services as well as protection and creation of the living environment. It does not explicitly mention the development of science.

Finally, the Act on NPOs' definition combines the two lists mentioned above and adds two public benefit categories: services promoting regional development and employment policies; and services ensuring the development of housing, including administration, management, and reconstruction of existing accommodation facilities.

Slightly different definitions of public benefit purposes are used for the tax treatment of donors and donees (compare Article 20(4), Income Tax Law, with [Article 5\(3\), Law on Donations](#)).

3. Economic Activities

No NGO may be established for the primary purpose of carrying out economic activities.

Although there is no explicit language to this effect in the Law on Associations, an **association** is generally considered to have the right to engage in economic activities so long as they are not its primary purpose.

Foundations may not engage in economic activities except for renting real estate constituting part of their endowments, and organizing cultural, educational, social and sporting events provided that these activities support the public benefit purposes for which the foundation was created ([Law on Foundations, Article 29](#)).

NI funds are prohibited from engaging in economic activities save for the above-mentioned exceptions provided to foundations ([Law on Non-Investment Funds, Article 23\(1\)](#)).

An **NPO** may engage in economic activities to the extent that these activities enable better utilization of its property and do not diminish the scope, quality, or accessibility of the public benefit services it provides ([Law on NPOs, Article 30](#)). NPOs may not invest in the economic activities of other persons or serve as partners in any for-profit ventures.

E. Political Activities

Associations may not be established for purposes for which political parties and political movements are organized according to law. Otherwise, associations are not forbidden from supporting or opposing political activities, ideas, or candidates.

Foundations, NI funds, and NPOs are expressly forbidden from using their assets to support political parties or political movements. However, these prohibitions do not limit their general right to engage in general political or lobbying activities, assuming that these activities are compatible with the public benefit purposes for which these NGOs have been established.

In this context, it may be difficult for U.S. donors to make an equivalency determination without affirming the presence of appropriate restrictions in the governing documents of the prospective grantee.

F. Discrimination

Article 12 of the Slovak Constitution expressly guarantees equal rights to all individuals without regard to sex, race, color of skin, language, faith, religious affiliation, political or other persuasion, ethnicity, or national or social origin. Ethnic minorities are given the right to disseminate information in their mother language, form associations and educational and cultural institutions, obtain education in their mother language and use their mother language in official dealings, and participate in decision-making concerning

matters of their ethnicity or national minority ([Article 34, Constitution](#)). Associations are explicitly prohibited from engaging in any activity that denies or restricts the civil rights of individuals because of their nationality, sex, race, origin, political opinions, or religious affiliation ([Article 4\(a\), Law on Associations](#)).

Act no. 365/2004 Coll. of 20 May 2004, effective from 1 July 2004, which also amends and supplements certain other Acts (Anti-Discrimination Law), is the general anti-discrimination law covering the whole area of discrimination as mentioned in EU Council directives 2000/43/EC, 2000/78/EC and 76/207EEC.

According to leading local experts, these provisions preclude a private school or other educational institution from discriminating based on race or ethnicity. Whatever discrimination of this kind may exist can be successfully challenged through a civil court.

G. Control of Organization

Legal entities may not establish citizens' **associations** (as defined by the Law on Associations), but they may join them as members. The Constitution grants all foreigners the same rights and privileges under Slovak law as Slovak citizens except in limited circumstances such as political parties ([Article 12\(2\), Constitution](#)). Thus, foreigners could theoretically found an association. However, in practice it is recommended to do so together with local citizens.

Foreign legal and natural persons are expressly permitted to establish **foundations** ([Article 3\(2\)\(b\), Law on Foundations](#)), **NI funds** ([Article 3\(1\), Law on Non-investment Funds](#)) and **NPOs** ([Article 4, Law on NPOs](#)). It is possible that a Slovak foundation, NI fund, or NPO could be to some degree controlled by a representative of a for-profit entity, who might be a member of the statutory Board of Directors of the NGO; this might lead to additional IRS scrutiny if the control were found unlimited). Additional scrutiny would also arise for Slovak NPOs controlled in a similar way by American grantor charities.

V. Tax Laws

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

A. Tax Exemptions

On January 1, 2004, a new Law on Income Tax came into force (Act No. 595/2003, replacing Act No. 366/1999). Under the new law, the income of NGOs from donations and inheritance is generally not taxable (Article 12 (1a) of Income Tax Law).

Further, associations, foundations, NI funds, and NPOs, as well as other NGOs, are generally exempt from taxation on income from statutory activities (Article 13(1a),

Income Tax Law). Associations are expressly exempt from the income tax on income from regular membership fees (Article 13(2b), Income Tax Law).

The non-statutory economic activities of NGOs are taxed at the general income tax rate of 19% (Articles 15 and 13(2e), Income Tax Law), except that incomes from selling NGO property are tax exempt below SKK 300,000 (about US\$8,000).

B. Deductibility of Charitable Contributions

The new income tax law does not provide for deducting donations to qualifying NGOs.

Instead, the Income Tax Law enables every natural or legal person resident in Slovakia to declare to the financial office their wish to allocate up to 2% of their income tax directly to one (in the case of a natural person) or more (in the case of a legal person) NGOs of their choice. Both donee and donor must have no outstanding debts relating to tax and dues payments, and the NGO must appear on a public list of those eligible to accept the donations. In addition, the recipient must use these assets to develop and protect intellectual values and human rights; protect and develop the environment; support and protect health and education; support sporting activities of children, youth, and handicapped citizens; provide social services; or preserve natural and cultural values (Article 50(5), Income Tax Law).

C. Value Added Tax

The tax reform that took effect in 2003 included a unification of the lower (reduced) VAT rate of 14% and higher (standard) VAT rate of 20%, resulting in a single VAT rate of 19% effective from January 2004. VAT is also newly applied to certain services (Article 10, VAT Law). VAT exemptions include transactions involving educational and scientific services and goods, health care services and goods, and social care services (Articles 31-33, VAT Law).

An NGO, like any other legal entity, is required to register as a VAT taxpayer if its gross turnover for the past three calendar months exceeded SKK 750,000 (approximately US\$21,000). Legal entities not meeting this threshold may apply to the Finance Administration to enter the VAT system and thereby be able to recover input VAT, but this decision is at the discretion of the Finance Administration (Article 4(4), VAT Law).

D. Import Duties

Items exempt from import duties include books and other goods for educational purposes, scientific equipment, goods used to improve the living standards of handicapped individuals, goods to be distributed free of charge by charities, office equipment and materials donated to Slovak NGOs, and goods for the blind. However, the exemption is only granted for goods when no equivalent is produced in Slovakia and the importation would not jeopardize the interests of Slovak manufacturers. Goods imported duty-free

may not be resold for a certain period of time, generally five years after importation, unless import duties are paid. Violations of this rule are subject to severe sanctions.

E. Double Tax Treaties

A double tax treaty was signed between the United States and the Slovak Republic in 1993.

VI. Knowledgeable Contacts

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