

Czech Republic

Current as of June 2011 | [Download print version](#) (in PDF)

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I. Summary

A. Types of Organizations

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

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

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

B. Tax Laws

Under the Income Tax Law, NGOs are exempt from tax on income from: statutory activities that do not generate a surplus revenue over related expenses (provided that certain conditions are met); state subsidies; other forms of state support; and “current account” bank interest (i.e., a single bank account used by an entity as its official income-expenditure account; other accounts may exist, but only one can be treated as a “current account”) (Article 18(4), Income Tax Law). Foundations, funds, and PBCs are generally exempt from the Tax on Donations. This exemption also applies to other public benefit NGOs assuming that the donation will be used for the organization’s public benefit activities (Article 20(4), Law on Donations). Accordingly, public benefit NGOs generally do not have to pay either income tax or donations tax on foreign grants. The exemption applies to all NGOs with a seat in a European Union member state (Article 20(12), Income Tax Law).

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

II. Applicable Laws

- Act No. 2/1993, Constitution of the Czech Republic and the Constitutional List of Freedoms and Rights (“Constitutional Act”);
- [Act No. 83/1990 on Associating of Citizens \(“Law on Associations”\)](#), as amended by Act No. 424/2010 as well as previous amending acts;
- [Act No. 227/1997 on Foundations and Funds \(“Law on Foundations”\)](#), as amended by Act No. 158/2010 as well as previous amending acts;
- [Act No. 248/1995 on Public Benefit Corporations \(“Law on PBCs”\)](#), as amended by Act No. 231/2010 as well as previous amending acts;

- Act No. 117/2001 on Public Collections (“Public Collections Law”) as amended by Act No. 281/2009 as well as previous amending acts;
- Act No. 111/2009 on Basic Register of Juridical Persons, Self-Employed Natural Persons and Public Authorities (“Law on Basic Register of Persons“);
- Act No. 586/1992 on Income Tax (“Income Tax Law”), as amended by Act No. 73/2011 as well as previous amending acts;
- Act No. 357/1992 on Patrimonial Tax, Tax on Donations and Tax on Transfer of Property (“Law on Donations”), as amended by Act No. 30/2011 as well as previous amending acts;
- Act No. 338/1992 on Real Estate Tax, as amended by Act No. 30/2011 as well as previous amending acts;
- Act No. 235/2004 on Value Added Tax (VAT), as amended by Act No. 47/2011 as well as previous amending acts;
- Act No. 561/2004 on maternal, basic, high, higher professional, and other university level education (“Law on Schools”) as amended by Act No. 73/2011 as well as previous amending acts.

III. Relevant Legal Forms

A. General Legal Forms

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

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

Associations

Associations are membership organizations established to pursue common interests. [\[2\]](#) Associations are generally regulated by the Law on Associations, and within broad parameters, associations are permitted to engage in both mutual benefit and public benefit activities. However, an association may not be established for the purposes of: violating the rights of other persons or the laws of the Czech Republic; pursuing military objectives; or interfering with activities reserved to the state (Article 4 and 5, Law on Associations). The Law on Associations does not regulate entities that pursue political, religious, or income-generating activities or the promotion of professions. These entities

and activities are regulated by special laws, including the Code of Commerce and several laws establishing professional chambers.

Foundations and Funds

Foundations and funds are mostly grantmaking, asset-based organizations established by legal or natural persons for public benefit purposes (Article 1(1), Law on Foundations). Foundations must maintain an endowment of at least 500,000 Czech Koruna or CZK (approximately USD \$29,400). This endowment requirement does not apply to funds. While the value of a foundation's endowment must be maintained and only its yields used, other assets of the foundation and all assets of a fund (including acquired donations) may be used to pursue statutory purposes, to provide financial support to third persons, and to cover administrative costs (Article 2(3), Law on Foundations). Per a 2010 change to the Law on Foundations, foundations and funds also may use their assets to cover their activities related to the fulfillment of the purpose for which they were established (amended Article 21 (1), Law on Foundations). Although neither form may engage in direct economic activities (with exceptions detailed below in section IV(D)(3)), both foundations and funds may organize cultural, social, sporting, and educational events, as well as lotteries and public collections, in order to raise funds (Article 23(1), Law on Foundations). Investments of assets that comprise the registered endowment are subject to specific rules limiting the risk of loss. Funds are prohibited from investing in capital markets. Foundations, but not funds, may establish Public Benefit Corporations (Article 23 (6b), Law on Foundations) and hold up to 20% of the shares of joint stock companies. For that purpose they may use up to 20% of the total value of their assets after subtracting the value of the registered endowment (Article 23 (7), Law on Foundations).

Public Benefit Corporations

PBCs are nonprofit organizations that have no members and render “generally beneficial services” to the public on previously publicized equal terms and conditions (Article 2, Law on PBCs). PBCs were originally created to enable the privatization of state entities providing public benefit services. In practice, however, PBCs commonly have been used as an alternate legal form for those foundations created before 1998 that could not meet the criteria for establishing a foundation under the new Law on Foundations. Other organizations, including theatres, hospitals, homes for the elderly, drug rehabilitation clinics, as well as other kinds of not-for-profit establishments providing community services, became PBCs after the enactment of the Law on PBCs. Institutes, community centers, and entities providing social, educational, and cultural services also often form as PBCs.

PBCs may provide their statutory services for fees and engage in economic activities if the income generated augments the use of the organization's assets and human resources without negatively affecting the quality, scope, and availability of the statutory public services provided (Article 17 (1), Law on PBCs). PBCs may not invest in the entrepreneurial activities of other persons. The amended Law on PBCs allows a PBC to

establish a legal entity without any further conditions except the approval of the Board of Directors of the PBC (Article 13(1d), amended Law on PBCs). [3]

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

B. Public Benefit Status

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

The concept of public benefit is woven into the Income Tax Law, the Public Collections Law, and the Law on Donations. Under the Income Tax Law (Articles 15(8) and 20(8)), natural persons and legal entities may in general deduct from taxable income gifts to a legal entity based in the Czech Republic, in any other member state of the European Union, or in Norway or Iceland, if the recipient allocates the gifts to certain public benefit activities: science and learning, research and development, culture, schools, police, fire squads, support and protection of young people, protection of animals and their health, social and health care, ecology, humanitarian and charity purposes, religious purposes for registered churches and religious communities, and sports. Assistance for relief in the event of humanitarian disasters is treated similarly. The tax base reduction applies also to those foreign legal entities that are organizing a “public collection.” Under the Public Collections Law, “public collection” is limited to collecting contributions for promoting “public benefit purposes,” such as humanitarian and charitable goals, the development of education and learning, physical fitness and sports, the protection of cultural heritage or traditions, and the environment (Article 1, Public Collections Law). Thus, tax deductibility may depend on how an NGO uses the donation.

IV. Specific Questions Regarding Local Law

A. Inurement

The Law on Associations does not restrict the ability of associations to distribute assets or income to members, employees, or others associated with the organization. Moreover, there are no provisions limiting administrative costs, reimbursement or compensation rates, or the distribution of remaining assets upon dissolution of an association.

The assets of a foundation or fund must be used in a manner consistent with the purposes and conditions set forth in the organization's governing instruments (Article 21, Law on Foundations). In addition, the law precludes directors, comptrollers, and other members of a foundation or fund's governing bodies, as well as persons closely related to them, from receiving grants from the organization (Articles 11(4) and 21(5), Law on Foundations). Directors of a foundation or fund are permitted to receive reimbursement for their services to the foundation or fund, but not to be directly employed by it. There are no legal limitations on what compensation may be offered (Article 21(2), Law on Foundations). [\[4\]](#)

According to amendments to Act 248/1995 on PBCs by Act No. 231/2010 which entered into force on January 1, 2011, the Board of Directors ceases to be a statutory body of the PBC, since that is a role given to the Executive Director. The new regulation also allows a PBC to have up to one-third of the Board of Directors elected from the employees of the organization and eliminates limitations for members of the Board of Directors and Supervisory Board regarding compensation for services rendered to the PBC (Articles 9a to 14, amended Law on PBCs). Nevertheless, the law prohibits the use of the organization's profit for the benefit of its founders, members of its management bodies, or employees (Article 2(1)(c), Law on PBCs) and the salary of the Executive Director and sum of compensations to the members of the boards must be reported as a part of the mandatory Annual Report (Article 21 (1f), amended Law on PBCs).

B. Proprietary Interest

The Law on Associations contains no provisions concerning residual or on-going proprietary interests of members in an association's property or income. Since association members and donors can contractually agree to the terms of use for any property they contribute to an association, it is possible for outside parties to possess proprietary interests in an association's property.

Although the Law on PBCs and the Law on Foundations do not explicitly prohibit the existence of proprietary interests, they are generally interpreted as barring such interests.

The Law on Foundations explicitly prevents any person from exercising proprietary control over a foundation and prohibits a foundation from controlling another juridical person. There is one exception: a foundation can establish its own public benefit corporation. Per amendments to the Law on PBCs effective January 1, 2011, PBCs can establish other juridical persons (Article 13(1d), amended Law on PBCs).

However, the amended Law on PBCs allows the Czech Republic, the self-governing Regions (there are 14 Regions into which the Czech Republic is administratively divided

in accordance with EU laws), and municipalities to become founders of a PBC. These government entities may endow or donate to the PBC real estate and other intangible property which is then excluded from the liquidation process in the event of the PBC's winding up. Endowments and donations made by these entities return to the public founder or the state upon liquidation of a PBC (Article 9, amended Law on PBCs). This framework does not apply to those founders who are natural persons or private legal entities.

C. Dissolution

Few normative rules govern the distribution of an association's property remaining after dissolution. An association, like a commercial entity, can generally distribute remaining assets to members upon dissolution. In situations where an association accepted donations supporting public benefit purposes, the legal vacuum has been the source of public scandals [5]. Additional legal regulation for associations is expected to come with the Act on Public Benefit Status, as well as with the new Civil Code; both are, however, still in an advanced legislative stage.

In the event of the winding up of a foundation or fund, all remaining assets must revert to another foundation or fund having similar public benefit objectives. The endowment of a foundation must be transferred as a part of an endowment to the recipient foundation. In the absence of such a foundation or fund, the assets are transferred to the municipality where the organization is registered for publicly beneficial objectives. The recipient of the liquidation balance must use it for a public benefit purpose (Article 9(4), Law on Foundations). If the value of the endowment and assets have diminished to a level that makes it impossible to continue to support third parties by providing grants, a foundation or a fund may seek to merge with another foundation or fund established according to the Law on Foundations. A foundation may merge with a domestic foundation, while a fund may merge with another domestic fund or a foundation. Foundations that are not able to maintain endowment equity value above the minimal level of CZK 500,000 must merge with another foundation. The Board of Trustees of a fund may decide on the change of a fund into a foundation, when there is a consensus with the founder of the fund and there is a possibility to create an endowment required for a foundation using the existing assets of the fund. (Articles 8 and 8a, amended Law on Foundations).

In a similar fashion, the remaining assets of a PBC after dissolution may be transferred only to a PBC identified in the organization's charter or chosen by the board of directors after deciding to terminate the PBC and liquidate its assets. A PBC's founder(s) must concur. A PBC's incorporation document can permit the transfer of the rights of a founder to another person (Articles 4(4) and 7(7), amended Law on PBCs). If there is no PBC willing to acquire the property or liquidation balance, the remaining assets revert to the local government or the state (through the local government where it was registered) (Article 9 (6-10), amended Law on PBCs). In this case as well, the assets must be allocated to a public benefit activity. However, if the founder is a public entity, the

liquidation balance of the PBC must be transferred to the founder, unless the incorporation document issued by the founder(s) identifies another PBC to take over the remaining assets after termination of the PBC (Article 9 (7, 8, 9), amended Law on PBCs).

D. Activities

1. General Activities

Associations may engage in both mutual benefit and public benefit activities. In contrast, foundations, funds, and PBCs are statutorily required to pursue public benefit objectives (Article 1, Law on Foundations; Article 2(1), Law on PBCs). None of the four legal forms of NGOs covered by this overview may be established for the purpose of undertaking economic activities. The law does not explicitly prohibit political activities but the right to register a candidate for election is strictly reserved to political parties and political movements. Foundations, funds, and PBCs may not provide financial support to political parties and political movements.

2. Public Benefit Activities

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

3. Economic Activities

An association may not be established for the primary purpose of carrying out economic activities. However, this legal requirement is often silently ignored since there exist many so-called associations with a limited and closed number of members (often on a family or neighborhood basis) that provide services and make a reasonable profit, while sometimes employing their members. The new Law on Basic Registers, which entered into force on July 1, 2010, has given associations three years to provide necessary data to the newly created Register. Changes to the framework as it relates to economic activities are expected to take effect after the new Civil Code becomes effective after 2012.

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

Foundations (but not funds) are allowed to hold up to 20 percent of the shares of a joint stock company and invest up to 20 percent of their property remaining after subtracting the value of their endowment in stocks of shareholding companies traded on regulated stock markets (Article 23(4), Law on Foundations). Strict rules govern the use of the endowment on the capital market (Article 23(3), Law on Foundations).

PBCs may engage in so-called “complementary activities” (including economic activities) provided that these do not jeopardize the quality, scope, and availability of the organization’s public benefit services (Article 17(1), Law on PBCs). PBCs may establish another juridical person but are not allowed to take part in the entrepreneurial activities of other juridical persons (Article 17(2), Law on PBCs). This restriction tends to limit the possible establishment of other legal entities to those operating under not-for-profit principles. Any profit earned from economic activities must be used for a PBC’s development.

E. Political Activities

Czech law treats NGOs in the same manner as other legal entities and therefore allows them to support or oppose political candidates and to participate in lobbying and public advocacy activities. Associations may not operate as political parties or political movements (Article 1(3)(a), Law on Associations), but nothing prohibits them from engaging in legislative or politically motivated activities. In fact, associations are often very active participants in fiscal decision making processes and in the environmental and regional development planning arenas.

Similarly, foundations and funds are prohibited from financing political parties and political movements (Article 21(6), Law on Foundations), but they are not proscribed from engaging in general legislative and political activities (assuming the activities would be compatible with their public benefit requirements). The Law on PBCs likewise contains no specific prohibition on politically related or lobbying activities.

F. Discrimination

The Czech Constitution explicitly prohibits discrimination based on, *inter alia*, sex, race, skin color, language, religion, political or other persuasion, national or social origin, or belonging to a national or ethnic minority ([Article 3\(1\), Constitutional Act](#)). Associations are explicitly prohibited from engaging in any activity that denies or restricts the civil rights of individuals because of their nationality, sex, race, origin, political opinions, or religious affiliation (Article 4(a), Law on Associations). According to leading Czech

experts, due to the supremacy of constitutional laws over all other legislation, the Czech Constitution precludes a private school or other educational institution operated as a PBC, as well as any other subject of the law, from discriminating based on gender, race, ethnicity, or sexual orientation.

G. Control of Organization

Legal entities may not establish citizens' associations in the Czech Republic, although they may join these associations as members (Article 2(2), Law on Associations). That said, there are separate legal forms for associations of legal entities, as specified by the Civil Code. The Czech Constitution guarantees that foreign persons (natural and legal) have the same basic political rights under Czech law as Czech citizens ([Article 42\(1\), Constitutional Act](#)), unless the Constitution specifically limits a right to citizens, e.g., the establishment of political parties and political movements and the right to be elected to the Czech Parliament. Therefore, foreign individuals may found an NGO, in any form, under Czech law. Foreign natural and legal persons are explicitly allowed to establish foundations and funds (Article 3(2)(b), Law on Foundations) and PBCs (Article 4(2), Law on PBCs). Citizens of member states of the European Union are basically treated in most business and civil rights issues as state citizens of the Czech Republic, with the exception of rights to elect and be elected to the Parliament and to be employed in the army, police and several other specific professions, as allowed by the EU law.

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

V. Tax Laws

The following section discusses relevant tax legislation, recognizing that taxes may affect the amount of the grant actually flowing to the grantee. [6]

A. Tax Exemptions

The Income Tax Law generally excludes from income taxation the income of an NGO earned in connection with the pursuit of its statutory activities, provided that the income is less than related expenses. Income derived from subsidies and grants provided by the state, regional and communal public budgets, as well as from budgets of the EU and any other countries also is exempt from taxation (Article 18(4)(b), Income Tax Law). Income from advertisements and facility rentals is subject to taxation (Article 18(3), Income Tax

Law) but the income from membership fees as defined in the statutory documents of an association is exempt from income tax. The following juridical persons are subject to these parameters: “interest associations of juridical persons explicitly not established for income generating activities, associations of citizens including trade unions, political parties and movements, churches and religious congregations, foundations and funds, public benefit corporations, public universities, public research institutions, educational juridical persons, communities, organizational branches of the state, regional governments, state funds, and other subjects defined by law” (Article 18(8), Income Tax Law). The above-mentioned taxpayers are obliged to keep their accounting books in such a way that income and related expenditures subject to the income tax are accounted for separately from income and related expenditures not subject to or exempt from the tax.

A special exempt category is also reserved for yields resulting from economic use of a property that is part of the protected endowment of a foundation. These yields are fully exempt from income tax (Article 19 (1)(r), Law on Income Tax).

The income tax law also specifically states that NGOs are generally not required to pay income tax on interest on current accounts, state subsidies, and other income from their statutory activities, provided that the expenditures exceed the income from the activity (Article 18(4), Income Tax Law). Foundations, [\[7\]](#) funds, PBCs, and other public benefit NGOs are also generally exempt from the tax on donations (Article 20(4), Tax on Donations).

Income from profit-yielding economic activities that is related to the statutory purposes of an NGO is subject to a reduced tax. All related income is fully exempt from income tax up to CZK 300,000 (approximately USD \$17,660). Total revenues (i.e., income minus related expenses) at the end of fiscal year that exceed this amount are reduced before taxation by 30% or CZK 1,000,000 (approximately USD \$58,800), whichever is less, provided that the proceeds are used for statutory public benefit activities within three years of accrual and other conditions are met. [\[8\]](#)

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

The following types of organizations generally are exempt from heritage and donation taxes: foundations and funds; public benefit corporations; registered churches and religious congregations; political parties; and other juridical persons with a seat in the Czech Republic, in any other EU member state, in Norway or in Iceland, established to undertake activities according to special laws or otherwise in the fields of culture, education, protection of young persons, science, research, technology development, learning, health care, social care, ecology, protection of endangered animals, physical training, sport, training of children and youth as well as voluntary fire protection. Property obtained must be used for the above activities.

B. Deductibility of Charitable Contributions

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

Individuals may deduct donations to qualifying NGOs up to 10 percent of the person’s taxable income. However, to qualify for the deduction, the individual must donate at least 2 percent of his/her taxable income or CZK 1,000. For legal entities, up to 5 percent of taxable income is deductible from the tax base. Another 5% of the tax base is deductible for donations to public health care establishments. NGOs exempt from donation tax may not make use of this tax deduction (Article 20(8), Law on Income Tax).

C. Value Added Tax

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

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

- Income from renting facilities and equipment,
- Educational services and goods provided and used by registered schools, educational institutions, and universities, and by accredited vocational training facilities; exempt also are educational and free-time activities provided by state subsidized

organizations and by not-for-profit NGOs of youth and children (Article 57, Law on VAT),

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

VAT must be added to the cost of services and goods and paid to the state by anyone whose turnover exceeds 1 million CZK (about USD \$58,800) within the preceding 12 month period of time (Article 6 (1), Law on VAT). Goods imported by an NGO from other EU member states up to a total value of CZK 326,000 (about USD \$19,200) within a calendar year are not included in the VAT calculation, with the exception of new cars or goods subjected to the consumption tax (Article 2 2b, Law on VAT). Also, any legal entity, including an NGO that accepts certain services from any VAT payer within the EU must report receipt within 15 days to be identified as a VAT payer (Article 96 and 97, Law on VAT). Services include: consulting, providing legal advice, accounting, data processing and information rendering, translating and interpreting. Services related to the

transport of goods from abroad are exempt. The penalty for noncompliance with this reporting requirement is calculated as 10 percent of the value of the goods acquired without paying the VAT. The penalty for a regular VAT payer for not registering is calculated as 10 percent of the total income obtained for taxable activities and imported goods starting from the day of registration obligation until the day when declared as a VAT payer by the tax administrator (Article 98, Law on VAT).

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

D. Property Tax

Real property tax is not imposed on plots of land occupied by buildings belonging to and serving the following types of entities: associations, PBCs, schools, museums, art galleries, public libraries, health or social care institutions, foundations, or organizations exclusively engaged in environmental protection (Article 4 (1), Act on Real Estate Tax). Undeveloped plots of land are also exempt from taxation if they belong to a foundation or to a PBC and serve their purpose(s). Certain categories of buildings are also exempt from the property tax. These include buildings belonging to associations, PBCs, churches and foundations, if the buildings house schools, libraries, museums, galleries, archives, health or social services, foundations, associations of handicapped people or are used exclusively to improve the environment or for religious activities. The basic property tax was doubled by Act No. 362/2009 (effective January 1, 2010).

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

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

fund or in accordance with conditions set by the Law on Foundations or similar laws of other countries of the European Union; this applies also to a donation of property by such a foundation or fund granted in accordance with conditions set by the incorporation document or statute of the foundation or the fund;

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

E. Import Duties

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

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

F. Double Tax Treaties

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

VI. Knowledgeable Contacts

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Footnotes

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

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

In the field of health care, a Public Benefit Corporation may also act as a Non-Governmental Health Establishment regulated by the Law on Health Care.

[2] Although the Law on Associations uses the term association “established by citizens” and does not explicitly permit foreigners to establish associations, the Czech Constitution provides foreign persons (natural and legal) with the same rights as Czech persons under Czech law, unless otherwise stipulated in a particular law. The right of association is explicitly guaranteed to all persons including foreigners (Articles 20(1) and 42(1), Constitutional Act No. 2/1993, on the List of Basic Rights and Freedoms).

[3] The most recent amendments to the Law on PBCs changed the role of a PBC’s managerial bodies. Its Executive Director serves as the PBC’s statutory representative; he or she is appointed and recalled by the Board of Directors. The Board of Directors is appointed by the PBC’s founders and serves to guarantee the integrity of the assets and other property, as well as the pursuit of the PBC’s purposes (Articles 12 to 14, amended Law on PBCs). A Supervisory Board oversees the operations of the PBC, its Executive Director and Board of Directors. It must report annually about its findings to these bodies as well as to the founder (Article 15 and 16, amended Law on PBCs).

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

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

[6] It should be noted that the coalition government of the Czech Republic, established after 2010 general elections, has proposed complex reform to the tax framework. The new laws being prepared by the current coalition government are expected to: reduce

drastically the number of tax exemptions; increase the tax benefits to donors supporting public benefit activities and legal entities with public benefit status; and abolish the lower of two existing VAT rates. The implementation of these changes is expected in 2012 to 2013.

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

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