

# Indonesia

Current as of December 2014

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## I. Summary

### A. Types of Organizations

Indonesia has three primary forms of not-for-profit, non-governmental organizations (NPOs):

- foundations,
- associations, and
- societal organizations without legal entity status. [1]

Law No. 17 of 2013 regarding Societal Organizations (*Organisasi Kemasyarakatan*) regulates civil society organizations in general. Foundations and incorporated associations fall under the category of “societal organizations with legal entity status,” while all other NPOs are categorized as “societal organizations without legal entity status.” Only foundations can be founded by foreign entities. There are three types of such foundations: (a) foreign foundations, (b) Indonesian foundations founded by foreign nationals or by foreign nationals together with

Indonesian citizens, and (c) Indonesian foundations founded by a foreign legal entity.

This Note will not discuss several other forms of NPOs, including: cooperatives and political parties (regulated by separate laws); organizations that operate under specific laws, such as the Educational Legal Entity (*Badan Hukum Pendidikan*, Law No. 20 of 2003 on National Education System Article 53); and NPOs structured as for-profit entities. [2]

## **B. Tax Laws**

Indonesian NPOs are generally subject to income tax. Donations, including religious-based donations and grants, are not taxed provided that there is no business or ownership relationship between the parties. In addition, the following types of income are tax-exempt: (i) income that an NPO uses to provide scholarship funds, and (ii) income (*sisa lebih*) of an NPO working in the area of education or research and development that is re-invested in its work as per the timing requirements of the income tax law (Law No.36 of 2008 on Income Tax Article 4 Section 3).

Tax deductions for charitable contributions are available for natural disasters, research and development activities, development of social infrastructure, education facilities, and sport. Indonesia subjects the sale of most goods and services to a Value Added Tax (VAT), with some exemptions pertinent to NPOs. Certain goods are exempt from customs duties as well.

## **II. Applicable Laws**

Chapter 10(A) of Indonesia's 1945 Constitution guarantees the freedoms of association, assembly, and expression to "every person," as regulated by law (Articles 28, 28E(3)). Indonesia ratified the International Covenant on Civil and Political Rights (ICCPR) in 2005 with the enactment of Law No. 12 of 2005 regarding the Ratification of ICCPR. Other relevant legislation affecting NPOs includes:

- Indonesian Civil Code (Article 1653), August 18, 1945 (originally from the Dutch civil code, it continues to apply under Clause II of the Transitional Provision of the 1945 Constitution) [3]
- [Law No. 17 of 2013 regarding Societal Organizations \(\*Organisasi Kemasyarakatan\*\)](#), replacing Law No. 8 of 1985), July 22, 2013
- Law No. 12 of 2005 regarding the Ratification of the International Covenant on Civil and Political Rights (ICCPR), October 28, 2005
- Law No. 16 of 2001 on Foundations (*Yayasan*), August 6, 2001
- [Law No. 28 of 2004 regarding the Amendment to Law No. 16 of 2001 on Foundations, October 6, 2004](#)
- *Staatsblad* (State Gazette) 1870-64 on Associations with Legal Person Status, March 28, 1870
- Law No. 36 of 2008 on the Fourth Amendment of Income Tax Law 1984, August 2, 2008
- Law No. 28 of 2007 on the Third Amendment of Law No. 6 of 1983 of General Rules of Taxation Procedure, July 17, 2007
- Law No. 18 of 2000 on the Second Amendment of Value Added Tax 1984, August 2, 2000

- **Law No. 17 of 2006 regarding the Amendment to Law No. 10 of 1995 on Customs, November 15, 2006**
- **Law No. 39 of 2007 regarding the Amendment to Law No. 11 of 1995 on Duties, August 15, 2007**
- **Law No. 11 of 2009 on Social Welfare (*Kesejahteraan Sosial*), January 16, 2009**
- **Government Regulation No. 2 of 2013 on the Amendment of Government Regulation No. 63 of 2008 on the Implementation of Law on Foundations, January 2, 2013**
- **Government Regulation No. 18 of 1986 on the Implementation of Law No. 8 of 1985 regarding Societal Organizations, April 4, 1986**
- **Presidential Regulation No. 80 of 2011 on Trust Funds, November 10, 2011**
- **Minister of Finance Regulation No. 80 of 2009 on Income Received by a Not-for-Profit Organization in Education and/or the Research and Development Sector which are Exempted from Income Tax**
- **General Directorate of Taxation Regulation No. 44 of 2009 on Implementation of the Acknowledgement of Income Received by a Not-for-Profit Organization in Education and/or the Research and Development Sector which are Exempted from Income Tax**
- **Law No. 20 of 2003 on Principles on Conducting Education (*Prinsip Penyelenggaraan Pendidikan*)**
- **Minister of Home Affairs Regulation No. 33 of 2012 on the Guidance to Register Societal Organizations in the Ministry of Home Affairs and Local Governments, April 20, 2012**
- **Minister of Law and Human Rights Regulation No. 5 of 2014 on Validation of Foundations, March 26, 2014**
- **Minister of Law and Human Rights Regulation No. M.HH-02.AH.01.01 of 2011 regarding the Registry of Foundations, September 21, 2011**

### **III. Relevant Legal Forms**

#### **A. General Legal Forms**

**In 2013, the Indonesian Government enacted Law No. 17 on Societal Organizations (hereafter Law on Societal Organizations). The Law regulates “all organizations founded and formed by the society voluntarily on the basis of shared aspiration, will, needs, interest, activity and purposes in order to participate in the development with the intention to achieve the objective of the Unitary State of the Republic of Indonesia based on the *Pancasila*” (Law on Societal Organizations Article 1). [4]**

**Foundations and incorporated associations fall under the category of “societal organizations with legal entity status,” while all other NPOs are categorized as “societal organizations without legal entity status.”**

Articles 5 and 6 of the **Law on Societal Organizations** provide for the Ministry of Home Affairs to have control over the activities of all forms of NPOs. For foundations, regulations are provided in the Law on Foundations. Associations and societal organizations without legal entity status do not have a detailed regulatory framework.

## **Foundation (*Yayasan*)**

**Law No. 16 of 2001 on Foundations (hereafter Law on Foundations) came into effect in August 2002 and was amended by Law No. 28 of 2004, which came into effect in October 2004. [5] The Law on Foundations defines a foundation as a non-membership legal entity, established based on the separation of assets, and intended as a vehicle for attaining certain purposes in the social, religious, or humanitarian fields (Law on Foundations Article 1 Section 1). [6]**

**The Law stipulates that the organizational structure of a foundation must consist of three bodies: the Governing Board (*Badan Pembina*), Supervisory Board (*Badan Pengawas*), and Executive Board (*Badan Pengurus*). The Governing Board delegates some functions, powers, and duties to the other bodies. [7]**

## **Associations (*Perkumpulan*)**

**There are two types of associations in Indonesia: (1) incorporated associations, which possess legal personality; and (2) ordinary associations, which do not. Both are membership-based organizations. Associations can be public-benefit organizations or mutual-benefit ones. The Law on Societal Organizations requires that associations be formed by a minimum of three Indonesian citizens.**

**Incorporated associations are based on the *Staatsblad 1870-64* (Dutch Colonial State Gazette) on Associations with Legal Person Status, along with the Law on Societal Organizations. [8] Individuals wishing to create an incorporated association must submit articles of association containing the association's statutory purposes to the Minister of Law and Human Rights. Approval by the Minister confers legal personality.**

**As for the ordinary association, *Staatsblad 1870-64* acknowledges the existence of an association without legal personality (Articles 8 and 9). The ordinary association is commonly known by various titles in Indonesian language such as *Perhimpunan*, *Ikatan*, and *Paguyuban*. An ordinary association is prohibited from conducting activities as a legal entity; any action taken will be considered the action of an individual member of the association. Even though such associations are not considered legal entities, they are still regulated by Articles 1663 and 1664 of the Indonesian Civil Code. [9]**

**At present, there are initiatives from various entities, including the government, NGOs and scholars, to draft a new law concerning associations. However, as of the writing of this Note, the House of Representatives has not put it on the legislative schedule.**

## **Societal Organizations without Legal Entity Status**

**Societal organizations without legal entity status shall be established by a minimum of three Indonesian citizens. They are formally recognized upon the issuance of a Registration Certificate (*Surat Keterangan Terdaftar* or SKT) from the Ministry of Home Affairs for a national-level organization, or governor for a provincial-level organization, or**

mayor/*bupati* for a city/regency-level organization. [10] The law further stipulates that national level organizations are organizations that have organizational structures in a minimum of 25 percent of the total number of provinces in Indonesia; provincial level organizations are organizations that have organizational structures in a minimum of 25 percent of the total number of cities/regencies in a province; and city/regency-level organizations are organizations that have organizational structures in at least one district.

There are also more simple types of societal organizations, i.e., ones without formal documents such as a deed of establishment, organizational work plan, and tax identification. The data of such organizations is collected by the *Camat* (District Head) (Law on Societal Organizations Article 18).

## **B. Public Benefit Status**

**Public benefit status does not entail any tax advantages or other benefits for Indonesian NPOs. Foundations may be public benefit organizations, although they may also operate to benefit only their stakeholders. Associations may be public benefit or mutual benefit organizations.**

# **IV. Specific Questions Regarding Local Law**

## **A. Inurement**

### **1. Foundation**

**A foundation's assets (cash, goods, or other types of assets) must not be transferred or distributed directly or indirectly among the members of the Governing Board, Supervisory Board, Executive Board, the foundation's employees, or any other parties having an interest in the foundation (Law on Foundations Article 5). A foundation must not distribute the income of its commercial enterprises among the members of the Governing Board, Supervisory Board, or Executive Board (Law on Foundations Article 3).**

**Moreover, the "Elucidation" section of the Law on Foundations [11] states that members of the Governing Board, Supervisory Board, or Executive Board must be volunteers who do not receive a salary, wages, or honoraria (beyond reimbursement for expenses). Law No. 28 of 2004 introduced an exception to this prohibition, such that members of the Executive Board may be compensated if they: (i) work directly and full-time for the foundation, (ii) are not the founders of the foundation, and (iii) are not affiliated with the founders, the Governing Board, or the Supervisory Board.**

**The Executive Board is also prohibited from entering into "self-dealing" transactions (Law on Foundations Article 38). It may not enter into agreements with any organization affiliated with the foundation, the members of the Governing Board, Supervisory Board, or Executive Board of the foundation, or an employee of the foundation. However, this prohibition is not applicable when the agreement seeks to help the foundation to attain its objectives.**

### **2. Association**

**There is no law restricting an association member from receiving a direct or indirect benefit from the association.**

### **3. Societal Organizations without Legal Entity Status**

**There is no law restricting a member from receiving a direct or indirect benefit from a societal organization without legal entity status.**

## **B. Proprietary Interest**

### **1. Foundation**

**The Governing Board, Supervisory Board, and Executive Board are all prohibited from receiving a direct or indirect benefit from a foundation. No party is allowed to receive a proprietary interest in the assets or income of a foundation. No party (including founders and donors) is allowed to revoke a contribution and reacquire their property.**

### **2. Association**

***Staatsblad 1870-64* does not regulate proprietary interests in the assets or income of associations. However, members are allowed to receive their contributions back from remaining assets after the association's liquidation (*Staatsblad 1870-64* Article 7).**

### **3. Societal Organizations without Legal Entity Status**

**The Law on Societal Organizations does not have any provisions regarding proprietary interests in the assets or income of societal organizations without legal entity status, now does it provide any guidance regarding liquidation.**

## **C. Dissolution**

**The Law on Societal Organizations provides a detailed set of rules on the dissolution of societal organizations. Societal organizations of all types can be dissolved if they violate Articles 21 or 59 of the Law on Societal Organizations, which make organizations subject to certain obligations and prohibitions, respectively (see Section IV.D., below.)**

**Societal organizations that violate any of the terms in Articles 21 or 50 will first be given written notice. If the organization continues the violation, the government will freeze its funding (if it receives funding from the government) and/or its activities. To freeze an organization's activities, in the case of a national-level societal organization, the government has to consult the Supreme Court and the Supreme Court shall give its opinion within 14 days. If this time frame of 14 days is not met, however, the government may impose a temporary freezing sanction,**

**without the opinion of the Supreme Court. In the case of a provincial-level or city/regency-level organization, the government must consult the leadership of the local House of Representatives, the head of the local attorney office, and the head of the local police. This temporary ban can be imposed for the maximum of six months. If the organization continues the violation after the maximum timeframe for the temporary ban, the organization can be dissolved.**

## **1. Foundation**

**The Law on Societal Organizations provides that a foundation, including foundation founded by foreign legal entity, can be dissolved by revoking its legal entity status if it continues violate Article 21 and Article 50 after a temporary ban. In order to dissolve a foundation, the Minister of Home Affairs must first submit a petition to the district court in which the foundation is domiciled. The district court then must issue a decision within 60 days upon receiving the petition. The court decision can be challenged to the Supreme Court as a cassation case and the Supreme Court must issue a decision within 60 days.**

For foreign foundations, because their legal entity status does not depend on the Indonesian government, the additional sanctions after a temporary ban are, in order of operation: to freeze their operational permit, to revoke their operational permit, to freeze their principle permit, to revoke their principle permit, and, lastly, to impose immigration sanctions according to immigration law (see Section 4.G., below, for more detail on the permit system).

**After dissolution, the Law on Foundations stipulates that the assets remaining after liquidation shall be given to other foundations that share the same objectives, as selected by the Governing Board (Article 68). Law No. 28 of 2004 adds that the remaining assets may also be given to legal entities other than foundations that pursue the same objectives, provided the laws regulating those legal entities allow such transfers. If neither of these laws is applicable, then the remaining assets shall be given to the State and used in accordance with the activities of the foundation.**

## **2. Association**

**As a membership-based organization, an association is governed substantially by the agreement among its members. An association can be voluntarily dissolved if it reaches its expiration date, accomplishes its objectives, or if its members agree to dissolve it (as long as doing so is not prohibited by law). Under Article 7 of *Staatsblad* 1870-64, assets remaining after liquidation can be owned by the members or divided based on their contributions.**

**The government can involuntarily dissolve an association by revoking its legal entity status if it continues to violate Article 21 and Article 50 after a temporary ban. In order to dissolve an association, the Minister of Home Affairs must first submit a petition to the district court in which the association is domiciled. The district court then must issue a decision within 60 days upon receiving the petition. The court decision can be challenged to the Supreme Court as a cassation case and the Supreme Court must issue a decision within 60 days.**

**Members of the association are allowed to receive their contributions back from remaining assets after the State Receiver (*Balai Harta Peninggalan*) completes the liquidation process.**

### **3. Societal Organizations without Legal Entity Status**

**For societal organizations without legal entity status, the government can revoke their** Registration Certificate (*Surat Keterangan Terdaftar* or SKT). Prior to revoking the Registration Certificate, the Law on Societal Organizations provides that the Minister of Home Affairs or the provincial or city/regency level government, depending on the level of operation of the organization, is obliged to seek an opinion from the Supreme Court. The Supreme Court is then obliged to provide an opinion within 14 days.

There are no rules on the liquidation process of a societal organization without legal entity status.

## **D. Activities**

### **1. General Activities**

**In general, a foundation or an association can undertake any lawful, not-for-profit activities. However, Articles 21 and 59 of the Law on Societal Organizations provide that all societal organizations, including associations and foundations, are subject to certain obligations and prohibitions. Article 21 of the Law obliges all societal organizations to: conduct activities according to the organization's purposes; guard the unity and integrity as well as integrality of Indonesia; maintain religious, cultural, moral, and ethical values and decency; provide benefits for society; maintain public order and social peace; manage their finances in transparent and accountable ways; and participate in pursuing the goal of the country (Law on Societal Organizations Article 21).**

**Article 59 creates prohibitions on certain activities of societal organizations, barring them from: the use of the flags and symbols of Indonesia, any other country, separatist organizations, other societal organizations, or political parties; activities related to disturbing public order, separatism, or hatred against any ethnicity, religion, race, and group; receiving illegal donations or collecting funds for political party; or subscribing, promoting, and spreading ideologies contradictory to *Pancasila* (Law on Societal Organizations Article 59).**

**There are additional obligations and prohibitions for foreign foundations and foundations founded by foreign entity. These entities must: respect the sovereignty of Indonesia; comply and obey all laws and regulations; honor and respect religious and cultural values of the Indonesian society; provide benefits to the Indonesian society and state; publish the value of all resources, and all spending of funds; and make periodic reports to the government or local government and publish them in the Indonesian language news media (Law on Societal Organizations Article 51). Foreign foundations and foundations founded by a foreign entity are specifically prohibited from: conducting activities that violate laws or regulations; disturbing stability and unity of Indonesia; conducting**

**intelligence activities; conducting political activities; conducting activities that may disturb diplomatic relations; conducting activities that are not in line with the foundation's purposes; raising funds from the Indonesian society; or using government facilities.**

**A foundation or an incorporated association becomes a legal entity, with all the attendant rights and responsibilities, upon the approval of the Ministry of Law and Human Rights. A societal organization without legal entity status is formally recognized upon the issuance of Registration Certificate (*Surat Keterangan Terdaftar* or SKT).**

## **2. Public Benefit Activities**

**According to the Law on Societal Organizations, foundations, associations, and societal organizations without legal entity status all are required to undertake public benefit activities.**

## **3. Economic Activities**

**A foundation can engage in commercial activities to support the attainment of its objectives by setting up commercial enterprises (*badan usaha*), or participating as a shareholder in commercial enterprises. [12] If the foundation sets up its own commercial enterprise, the activities of that enterprise must relate to the foundation's statutory purposes. The law defines these activities broadly, to include the fields of human rights, art, sport, consumer protection, education, environment, health, and the pursuit of knowledge (see Law on Foundations Article 8 (Elucidation)). If a foundation seeks to participate as a shareholder in other, unrelated commercial enterprises that are deemed to be prospective, it may do so provided that such shareholding does not exceed 25 percent of the total value of the foundation's assets (Law on Foundations Article 7(2)). Dividends received by the foundation from investment in its commercial enterprise are not subject to income tax.**

**In order to maintain good 'corporate' governance, no member of the governing, supervisory, or executive board of the foundation may simultaneously serve as a manager, supervisor, member of the Board of Directors, or member of the Board of Commissioners of any commercial enterprise that a foundation establishes or in which it invests.**

**According to the Law on Societal Organizations, associations may also engage in commercial activities to support their objectives (Article 39), but the Law does not provide further regulations on this matter. Societal organizations without legal entity status cannot engage in any commercial activities.**

## **E. Political Activities**

**Indonesian law does not restrict an NPO from participating in the political process by lobbying public officials, endorsing or opposing candidates, or otherwise.**

**However, the Law on Societal Organizations clearly prohibits foreign foundations and foundations founded by foreign entities to engage in political activities.**

## **F. Discrimination**

**The 1945 Constitution provides a legal basis for non-discrimination in Article 28, which provides that every person shall have the right to be free from discriminatory treatment based upon any grounds whatsoever and shall have the right to protection from such discriminatory treatment. This is further regulated by Law No. 12 of 2005 regarding the Ratification of the International Covenant on Civil and Political Rights (ICCPR).**

**Furthermore, Law No. 20 of 2003 concerning the National Education System requires the government to help provide an excellent education for every citizen without discrimination (Article 11 Section 1). The non-discrimination regulation applies to non-governmental educational institutions as well (Law No. 20 of 2003 Article 4 Section 1).**

## **G. Control of Organization**

**No law bars a third party from forming or controlling an NPO.**

**Foreign parties and for-profit entities are allowed to form NPOs in Indonesia, though in practice it is not easy for overseas entities to do so.**

**The Law on Foundations permits foreign citizens together with Indonesians or otherwise to establish a foundation under Indonesian law, and foreign foundations, such as foundations established under foreign laws, to operate in Indonesian territory. Foreign foundations must be operated in partnership with an Indonesian foundation and are limited to the pursuit of social, religious or humanitarian objectives. The Law on Foundations and relevant regulations outline a set of rules regarding foundations established by foreign individuals or entities.**  
[15]

**Such foundations must have a minimum of one Indonesian member on the executive board and that member must serve as the NPO's chair, secretary or treasurer (Government Regulation 63/2008 Article 12). In addition, all members of the executive board must be residents of Indonesia. Members of the executive board, governing board, and supervisory board who are not Indonesian citizens must have work and temporary residence permits (KITAS or *Kartu Izin Tinggal Sementara*) (Government Regulation 63/2008 Article 13).**

**There are no other provisions regarding the control of an organization. It is therefore possible that an Indonesian NPO could be controlled by a for-profit entity or by an American grantor charity (which requires that the charity specifically so provide in the affidavit). However, it is important to note that there are regulations regarding the "registration" of such NPOs.**

Foreign foundations are obliged to obtain government permits, namely a principle permit and an operational permit. Operational permits can only be obtained after a principle permit has been granted (Law on Societal Organizations Article 44). The principle permit is issued by the Ministry

of Foreign Affairs based on the considerations of the Permit Issuance Team, which shall be established by the Ministry of Foreign Affairs. To obtain a principle permit, the foreign foundation must fulfill the minimum requirements, namely that it was established in a country that has diplomatic relations with Indonesia and that its governing principle, purposes, and activities are not-for-profit. The operational permit is issued by the Ministry of Home Affairs or the local government according to the level of work of the foreign foundation only after the foreign foundation signs a written agreement with the Indonesian government according to its scope of activities. The duration of the principle permit is three years and can be extended, while the duration of the operational permit cannot be more than the duration of the principle permit.

Further, the Law on Societal Organizations provides that Indonesian foundations founded by foreign individuals and foreign legal entities must only be granted legal entity status by the Ministry of Law and Regulations after the Ministry receives the consideration of the Permit Issuance Team. Furthermore, Law No. 17 of 2013 states that the foreign individual founding the Indonesian foundation must have resided in Indonesia for five consecutive years and hold permanent residency (*Izin Tinggal Tetap*). The minimum assets of the Indonesian foundation founded by foreign individuals are 1 billion **Indonesian rupiah, or IDR** (approximately \$100,000).

There are additional regulations for Indonesian foundations founded by foreign legal entities. The foreign legal entity must have operated in Indonesia for five consecutive years and the assets of such foundations must be a minimum of IDR 10 billion (approximately \$1 million) (Law on Societal Organizations Article 47). In their operations, Indonesian foundations founded by foreign individuals or foreign legal entities are obliged to have partnerships with the government and Indonesian CSOs (Law on Societal Organizations Article 48).

**In addition, there is a special regulation for foreign NPOs that cooperate with the Ministry of Home Affairs. Ministry of Home Affairs Regulation No. 15 of 2009 requires a foreign NPO wishing to cooperate with the Ministry, including at the regional government level, to: (1) have approval from the Indonesian government; (2) get an appointment letter from the Ministry of Foreign Affairs to cooperate with the Ministry of Home Affairs; (3) have a representative office in Indonesia; (4) have a legitimate source of funding; (5) be listed as a NPO in its home country; (6) get approval from its headquarters in the appointment of its representative officer in Indonesia; and (7) obtain a recommendation letter from the embassy of its home country. [15]**

## **V. Tax Laws**

### **A. Tax Exemptions**

**NPOs are generally subject to income tax on the same basis as other legal entities (Law No. 36 of 2008 on Income Tax Article 2 Section 1(b)).**

**Donations, including religious-based donations and grants, are not taxed provided that there is no business or ownership relationship between the parties. In addition, the following types of income are tax-exempt: (i) income that an NPO uses to provide scholarship funds, and (ii) income (*siswa lebih*) of an NPO working in the area of education, or research and development that is re-invested in its work**

as per the timing requirements of the Income Tax Law (Law No. 36 of 2008 on Income Tax Article 4 Section 3).

## **B. Deductibility of Charitable Contributions**

Individual and corporate taxpayers may deduct charitable contributions for natural disasters, research and development activities, development of social infrastructure, education facilities, and sport (Law No. 36 of 2008 on Income Tax Article 6 Section 1). [16] There is no limit on the amount of the deduction. The tax law stipulates that recipients of such contributions shall further be regulated by a government regulation; however, the relevant regulation has not been issued.

## **C. Value Added Tax**

Indonesia imposes a Value Added Tax (VAT). The applicable rates are 10 percent on most goods and services, and between 10-50 percent for goods and services covered by the Luxury Sales Tax. Certain goods and services are exempt from VAT, including basic food supplies such as rice, salt, and corn; and services such as medical, social (public benefit), religious, education, and art services.

Foreign grants to private NPOs are exempt from VAT upon the approval of the Director General of Tax in the Ministry of Finance. However, this procedure is conducted on an ad-hoc basis, and NPOs are often unfamiliar with it. Grants related to government projects are clearly exempt from VAT (Government Regulation No. 42 of 1995 Article 2).

Every legal entity, including an NPO, conducting business activities that produce taxable income above a certain threshold is called a Taxable Entrepreneur, and must require its buyers or clients to pay VAT. These thresholds are quite high, so most NPOs in Indonesia are not affected. The thresholds are generally between 180 and 360 million IDR (approximately \$15,000-\$30,000), depending on the nature of the activities conducted by the NPO.

## **D. Customs Duties**

Certain items are exempted from customs duties on imports (Law No. 17 of 2006 on Customs Article 25 Section 1; Law No. 39 of 2007 on Duties Article 9 Section 1). Those items include the following: goods belonging to a registered international institution and its officers on duty in Indonesia based on the reciprocity principle; science books; grants for religious, charity, social, or cultural activities and for the purpose of natural disaster relief; goods for museums, zoos and other similar public places as well as nature conservation; goods for scientific research and development; goods for the use of disabled people; and goods for social purposes.

To receive such an exemption, the importer must submit a proposal to the Minister of Finance through the Director of Customs and Duties. The proposal must include details of the imported goods, a gift certificate or letter of donation, and a recommendation letter from the related Ministry. If the proposal is approved, the Director of Customs and Duties in the name of the Minister of Finance will issue a decree for the exemption. [17]

## **E. Other Taxes**

**NPOs are subject to Land and Building Taxes, Stamp Duty, and Real Property Acquisition Fee.**

## **F. Double Tax Treaties**

**A double taxation treaty exists between the United States and Indonesia, but it does not specifically address the deductibility of contributions to NPOs.**

## **VI. Knowledgeable Contacts**

**Eryanto Nugroho, PSHK (Pusat Studi Hukum dan Kebijakan Indonesia or Indonesian Centre for Law & Policy Studies, [www.pshk.or.id](http://www.pshk.or.id)): [ery.nugroho@pshk.or.id](mailto:ery.nugroho@pshk.or.id)**

**Bivitri Susanti, PSHK: [bivitri.susanti@pshk.or.id](mailto:bivitri.susanti@pshk.or.id)**

## **Notes**

**[1] The original term in Indonesian is *Organisasi Kemasyarakatan*. While the Indonesian government does not publish official translations of laws and regulations, this term is generally translated as “social organizations” or “mass organizations.” Indonesian media generally use “mass organizations.” However, the correct translation according to local partners is “societal organizations” because it refers to “groups in the society” instead of groups that are “social” in their work, as in providing charity or providing a social network. Translating *Organisasi Kemasyarakatan* as “social organizations” may also confuse it with another type of organization, *Organisasi Sosial*, which is correctly translated as “social organizations.” Social Organizations are regulated by the Law on Social Welfare and supervised by the Ministry of Social Affairs. Therefore, this note uses the term “societal organizations.”**

**[2] Law No. 9 of 2009 used to also govern the Educational Legal Entity, however on March 31, 2010, Indonesia’s Constitutional Court ruled Law No. 9 unconstitutional and invalid.**

**[3] Article 1653 of Chapter 9 of the Third Book of the Civil Code is generally regarded as the source of Indonesia’s primary not-for-profit legal forms, the foundation and association.**

**[4] *Pancasila* consists of two Sanskrit words, “*panca*” meaning five, and “*sila*” meaning principles. It comprises five principles held to be inseparable and interrelated, namely: belief in the one and only God; just and civilized humanity; the unity of Indonesia; democracy guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives; and social justice for the whole of the people of Indonesia. Among its other uses, Pancasila was used as a counter-ideology to communism.**

[5] Law No. 28 of 2004 changed 19 provisions and deleted two provisions from Law No. 16 of 2001. These were for the most part provisions addressing administrative and financial procedures.

[6] It should be highlighted that the broad term "social" in this definition might cause a problem in practice, because it is applicable to any not-for-profit activity. Consequently, there is no overall rule that a foundation must provide a public benefit, as opposed to serving only its stakeholders. It depends on the foundation's statutory purposes.

[7] The law also requires every foundation to publish the abridged version of its annual report on an announcement board in its office. Furthermore, foundations which have received donations from the state, overseas parties, or third parties totaling 500 million Indonesian rupiah (IDR) (approximately \$45,000) or more, or which possess assets other than endowed assets of over 20 billion IDR (approximately \$2 million), must be audited by a public accountant and have their annual report summaries published in an Indonesian-language daily newspaper (Law on Foundations Article 52).

[8] The word "*Perkumpulan*" (Association) is "*Vereniging*" in Dutch and "*Verein*" in German, which means an opposite of *maatschap* or *vennootschap* (company or corporation). See Chidir Ali, *Badan Hukum* (Bandung: Alumni, 1999), at 119.

[9] Article 1663 states: "All other corporate bodies shall continue their existence until they are specifically dissolved in accordance with their rulings, agreements and regulations, or until the purpose or the object of the corporate body ceases to exist."

[10] Indonesia is a unitary state; regional governments, both at the provincial and city/regency levels, are placed under the Ministry of Home Affairs. Regional autonomy is put on the city/regency level, except for provinces with special autonomy, such as Aceh and West Papua. Regional Autonomy does not include foreign policy, defense, security, judicial matters, monetary and fiscal policy, and religious issues.

[11] "Elucidation" (in Indonesian language "*Penjelasar*") of law in the Indonesian legal system is considered as the law itself and has the same power (Law No. 10 of 2004 regarding Lawmaking Process).

[12] The 2004 Law amending the 2001 Law on Foundations in 2004 provides a more explicit provision prohibiting foundations in Indonesia from directly conducting any business activities (Law No. 28 of 2004 amending the Law on Foundations Article 3(1) (Elucidation)).

[13] In July 2013, in its 108th session, the United Nations Human Rights Committee expressed its concern over the recently adopted Law on Societal Organizations and urged the Government of Indonesia to review the Law to ensure that it is in compliance with the provisions of Articles 18, 19, and 22 of the ICCPR. This concern was expressed in a Concluding Observation as a response to the initial periodic report of the Indonesian Government on the International Covenant on Civil and Political Rights, particularly paragraph 24.

**[14] The Law, for example, mandates a minimum contribution to the foundation's assets of 100 million IDR (approximately \$10,000). For registration, the minimum contribution must be documented, the foreign individual/entity must provide identification, and there must be a statement that the foundation will not be detrimental to the Indonesian society, nation, or country. Activities must be in partnership with foundations established by Indonesian citizens/entities that have the same goal and purpose as the foreign foundation. Further, such partnership must be "safe" from the political, legal, technical and security perspective (Government Regulation 63/2008 Article 26); the Regulation does not further define what is meant by these terms.**

**[15] Law No. 11 of 2009 on Social Welfare, which was enacted in January 2009 and replaces the prior law from 1974, requires institutions, including NPOs, that deal with social welfare to be registered with the Ministry of Social Affairs. Foreign NPOs working in this area are also required to obtain permits and report their activities in advance to the Minister of Social Affairs and the appropriate district head. Violations of these provisions are subject to administrative sanctions such as a written warning, a temporary cessation of activities, permit revocation, an administrative fine and/or a penalty.**

**[16] Before the enactment of the 2008 Law, additional tax incentives were set up on an ad hoc basis. As but one example, the Minister of Finance issued a special regulation concerning the tax deductibility on donations for the Tsunami disaster in Aceh (Regulation Number 609/04).**

**[17] There is no specific provision about the abuse of this exemption through resale, but a general provision states that those who violate these exemption regulations and cause losses to the country's income will be fined in the amount of 100 percent of the duty (Law on Customs and Duties Article 25 4).**