



Guide on the tax regime related to the income of non-commercial organizations

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This Guide aims to explain how to apply the tax regime established by [art. 52 of the Tax Code](#) for the taxation of income of non-commercial organizations and their exemption from taxation.

I. GENERAL DISPOSITIONS

Non-commercial organization represents a legal entity whose activity is not aimed at obtaining income and who does not use any part of property or income in the interests of any member of the organization, a founder or a private person¹.

Non-commercial organizations can be classified according to the following criteria:

- By form of creation,
- By nature of activity,
- By level of activity expansion.

Non-commercial organizations can be created in the form of associations, foundations or institutions.

Depending on the nature of the activity, non-commercial organizations are divided into public benefit organizations and mutual benefit organizations.

Non-commercial organizations that pursue the *public benefit* are organizations whose object of activity is exclusively the protection of human rights, education, acquisition and dissemination of knowledge, health care, social assistance, culture, art, amateur sports, liquidation of natural disasters, environmental protection and other areas of social-useful character.

Non-commercial organizations that pursue the *mutual benefit* are constituted in order to satisfy the particular and corporate interests of the members of these associations.

The particularities of the creation and activity of different types of non-commercial organizations are established by laws that regulate their activity (Table 1).

Table 1

Laws governing the activity of non-commercial organizations

No.	The type of organization	Legislative acts under which the organization is created
1.	Public association	Law on public associations no.837-XIII of May 17, 1996
2.	Foundation	Law on foundations no.581-XIV of July 30, 1999
3.	Philanthropic organization	Law on philanthropy and sponsorship no.1420-XV of October 31, 2002
4.	Religious organization	Law on freedom of conscience, thought and religion no.125-XVI of May 11, 2007
5.	Political parties and socio-political organizations	Law on political parties no.294-XVI of December 21, 2007
6.	Periodicals and press agencies	Law on press no.243-XIII of October 26, 1994 Law on denationalization of public periodicals no.221 of September 17, 2010
7.	Condominium co-owners associations	Law on condominium in the housing fund no.930 of March 30, 2000

¹art.5 pt.14) of the Tax Code

1.1. The registration of non-commercial organizations

The legal capacity of the non-commercial organization, as a legal entity, appears from the date of registration of its statute by the authorized state body. The non-commercial organization that has not registered its statute does not have the legal capacity of a legal entity, but is an informal association of private persons.

The statute of non-commercial organizations is registered by the Department of registration and licensing of legal entities within the Public Services Agency. Data on non-commercial organizations are contained in the State Register of Legal Entities, which is kept by the Public Services Agency.

1.2. The activity of non-commercial organizations

The non-commercial organization carries out its activity based on the statute, unless the law provides otherwise.

Statutory activity of the non-commercial organization is considered any kind of activity not prohibited by law, including economic activity related to the achievement of statutory objectives and which includes:

- 1) activities for presenting and promoting the goals of the organization;
- 2) special missions;
- 3) public utility and fundraising actions;
- 4) economic activity arising from the statutory objectives;
- 5) other activities not prohibited by law.

The non-commercial organization is entitled to carry out economic activity that results directly from the purposes provided by the statute, including production activity, provision of services, investment and other activities that result directly from the statutory purposes. The economic activity, which results from the statutory objectives and according to the legislation is to be licensed, can be carried out by the non-commercial organization only after obtaining the respective license.

In order to practice an economic activity that does not result directly from the purposes provided by the statute, the non-commercial organization may found commercial companies and cooperatives. The right of some types of non-commercial organizations to create commercial companies and cooperatives may be limited by law.

II. ORGANIZATION OF ACCOUNTING

The non-commercial organization keeps accounts and prepares financial statements in accordance with the basic principles and rules established by the following legislative and normative acts:

- [Law on accounting and financial reporting no.287 of December 15, 2017](#);
- National Accounting Standards²;
- General chart of accounts³;
- Methodological guidelines regarding the particularities of accounting in non-commercial organizations⁴.

²MF Order no. 118 of 06.08.2013

³MF Order no. 119 of 06.08.2013

⁴MF Order no. 188 of 30.12.2014

The non-commercial organization applies the double entry accounting system with the submission of financial statements, according to the forms in the annexes to Methodological guidelines.

2.1. Revenues and expenses of non-commercial organizations

According to Methodological guidelines, the income of the non-commercial organization includes income obtained from the use of designated means, non-designated means and contributions from the founders and members of non-commercial organizations, as well as income from economic activity.

Designated means are assets and services received or to be received in the form of grants, donations, allowances, financial or technical assistance, contributions from founders and members, other funding and receipts, own means and funds whose use is conditional on accomplishment of special missions (buying/creating certain assets, financing programs/projects, etc.).

Non-designated means are assets and services received or to be received, the use of which is not conditioned by the accomplishment of special missions.

According to Methodological guidelines, non-designated means received in the form of assets are initially accounted for as a simultaneous increase in fixed and/or current assets and current liabilities.

Non-designated means received in the form of current assets are accounted for as they are used as:

- 1) increase of current costs/expenses and decrease of current assets, etc.;
- 2) decrease in current debts and increase in current income.

Income from economic activity includes:

- 1) income from manufacturing activity, sale of goods, execution of works and provision of services;
- 2) financial income (income from differences in exchange rate and amount, interest, except for designated means, investments, other financial income);
- 3) income in the form of compensation received to reimburse expenses or losses from natural disasters or other exceptional occurrences;
- 4) other income related to economic activity.

The accounting records must ensure the delimitation and separate registration of the designated means whose use is conditioned by the accomplishment of some special missions (buying/creating certain assets, financing some concrete programs/projects, etc.).

Income of non-commercial organizations are accounted for in the following accounts:

- **account 616** "Income related to designated means" is intended for generalizing information on the income of non-commercial organizations in the form of grants, donations, allowances, financial or technical assistance, other financing and receipts whose use is conditional on the accomplishment of special missions related to statutory activity;

- **account 617** "Other income (except income from economic activity)" is intended for generalizing information on income related to non-designated means of non-commercial organizations, the use of which is not initially conditioned by the accomplishment of special missions and which cannot be attributed to income related to designated means.

Income from financial means obtained as a result of percentage designation will be recorded in

account 617 "Other income (except income from economic activity)";

- **account 618** "Income from economic activity" is intended for generalizing information on **income from economic activity** of non-commercial organizations.

Expenses of non-commercial organizations, as appropriate, shall be accounted for in the following accounts:

- **account 716** "Expenses related to designated means" is intended for generalizing information on the expenses of non-commercial organizations incurred on the account of designated means;

- **account 717** "Other expenses (except expenses from economic activity)" is intended for generalizing information on other expenses incurred, except those from the economic activity of the non-commercial organization and which cannot be attributed to expenses related to the designated means.

Expenses incurred on the account of financial means obtained as a result of percentage designation will be recorded in account 717 "Other expenses (except expenses from economic activity)";

- **account 718** "Expenses from economic activity" is intended for generalizing information on **expenses from economic activity** of non-commercial organizations, including the cost of sales and other expenses from economic activity.

The settlement of unused and remaining means available to the non-commercial organization is recorded as a decrease in long-term or current designated financing and receipts and an increase in the self-financing fund.

The result from the economic activity (profit/loss) is determined at the end of the reporting period and is settled at the increase or decrease of the self-financing fund of the non-commercial organization.

The beneficiaries of the financial means obtained as a result of percentage designation will register the respective means in the composition of the non-designated means and will use them within two tax periods without directing them to the self-financing fund at the reporting date. Amounts not used during two tax periods will be returned to the budget.

III. METHOD OF INCOME TAXATION AND EXEMPTION FROM PAYMENT OF INCOME TAX

Non-commercial organizations are exempt from paying income tax if they meet the requirements⁵:

- a) are registered or established in accordance with the legislation and carry out activity in accordance with the objectives provided by the statute, regulation or other incorporation document;
- a¹) the economic activity provided by the statute, regulation or other incorporation document corresponds to the objectives and purposes provided by the statute, regulation or other incorporation document and results directly therefrom;
- b) the statute, regulation or other incorporation document indicates the prohibition on the distribution of designated means, other means and income derived from statutory activity or

⁵art. 52 para.(2) of the Tax Code

- property between the founders and members of the organization or among its employees, including in the reorganization and liquidation process of the non-commercial organization;
- c) designated means, other means and income derived from statutory activity, property of the organization are used as provided by the statute, regulation or other incorporation document;
 - d) do not use the designated means, other means and income derived from statutory activity or property in the interest of a founder or member of the organization or in the interest of an employee, except for salary payments or other payments regulated by the Labor law, directed in its favor;
 - e) do not support political parties, electoral blocks or candidates for office in public authorities and do not use designated means, other means and income derived from statutory activity or property for their financing.

NOTE: The restrictions provided by letter e) do not extend to socio-political parties and other organizations

The right to exemption from the payment of income tax is exercised from the date of registration of the organization⁶.

The non-commercial organization is to be subject to taxation in the generally established manner if:

- 1) is not registered or created in accordance with the legislation and carries out activity that does not correspond to the objectives provided by the statute, regulation or other incorporation document;
- 2) carries out economic activity not provided by the statute, regulation or other incorporation document;
- 3) uses designated means, other means and income derived from statutory activity or property in the interest of a founder or member of the organization or in the interest of an employee, with the exception of salary payments directed in its favor;
- 4) designated means, other means and income derived from statutory activity, property of the organization are used for the purposes not provided by the statute, regulation or other incorporation document;
- 5) supports or finances political parties, electoral blocks or candidates for office in public authorities (does not extend to socio-political parties and other organizations).

Non-commercial organizations that use, contrary to the destination, designated means or property, other means and income derived from statutory activity for purposes not provided by the statute, regulation or other incorporation document, calculate and pay income tax at the rate provided by [art.15 lett.b\) of the Tax Code](#) from the amount used contrary to the destination.

The income obtained by non-commercial organizations of public benefit, religious cults and their components according to the law as a result of percentage designation are not subject to taxation.

Non-commercial public benefit organizations, religious cults and their components may use the financial means obtained as a result of percentage designation, within a period not exceeding two tax periods after the tax period in which the percentage designation was made.

⁶art.52 para.(4) of the Tax Code

Amounts not used during this period shall be returned to the budget by the deadline for submission of the report on the use of the percentage designation amounts.

Example 1

The non-commercial organization uses some of the designated means to buy a health resort treatment ticket to offer to its employee, which is not provided by the statute. The amount of designated means contrary to the statutory purposes, in the amount of the loan granted to the employee, will be a source of taxable income on which the income tax rate of 12% will be applied.

For the employee of the non-commercial organization, the value of the health resort treatment ticket granted by the employer is considered as a facility granted by the employer in accordance with the provisions [art.19 lett.a\) of the Tax Code](#), which is taxed in the manner set out in [art.88 of the Tax Code](#).

Example 2

The non-commercial organization provides paid services. The mentioned activity is provided by the statute of the non-commercial organization, but the income from this activity is used not to achieve the statutory purposes of the organization, but is distributed among the founders.

From the amount of income obtained from the provision of paid services, subsequently distributed among the founders, the non-commercial organization is to calculate and pay income tax.

The founders of the non-commercial organization, in turn, are obliged to declare the income obtained and include it in the gross income for taxation.

NOTE: The provisions of Chapter 7¹ "Tax regime of the economic agents subjects of the small and medium enterprises sector" of the Tax Code cannot be applied to non-commercial organizations, given the fact that they cannot be qualified as economic agents specified in the mentioned chapter.

IV. INCOME STATEMENT BY THE NON-COMMERCIAL ORGANIZATION

The non-commercial organization, being established as a legal entity, based on the provisions of art.83 para.(2) lett.c) of the Tax Code, regardless of the tax payment liability, is obliged, no later than March 25 of the year following the reporting fiscal year, to present [Income Tax Return for non-commercial organizations \(form ONG17\)](#).

The Return shall be filled out in the manner approved by the [MF Order no.08 dated 15.01.2018](#).

In the said Return, regardless of whether the non-commercial organization is exempt from paying income tax, it is necessary to determine the taxable income.

The accounting data are used as a basis for completing the Return.

The non-commercial organization is not to calculate the depreciation of fixed assets for tax purposes, if the fixed assets are not used in the economic activity of the entrepreneur.

Example 3

In the year 20XX the income of the non-commercial organization in the form of designated means was 100,000 MDL, and the income in the form of contributions of the members of the organization -15,000 MDL.

Expenses, according to financial records, amount to 60,000 MDL.

Of the total amount of income (115,000 MDL), 10,000 MDL were used for purposes not provided for in the statute, namely – for the education of a relative of the founder of the non-commercial organization.

The profit (row 010 of the Return) amounted to 55,000 MDL (115,000 - 60,000). The tax liability related to the income tax is 1,200 MDL (10,000 x 12%). The income tax from the amount of income, used for purposes not provided by the statute, amounted to 1,200 lei (10,000 x 12%).

In the Income Tax Return for non-commercial organizations, the data in Example 3 are reflected as follows:

Table 2

Indicators	Code	The amount
Surplus (deficit) of the current reporting period until taxation (row 0101 - row 0102)	010	55,000
Total amount of income recognized according to financial accounting data (sum of "Income" class) (row 01011 + row 01012 + row 01013)	0101	115,000
Income from designated means	01011	100,000
Income from economic activity provided by the statute	01012	-
Other income (excluding income from economic activity)	01013	15,000
Revenue from percentage designation (informative)	01014	-
Total amount of expenses recognized according to financial accounting data (sum of "Expenses" class) (row 01021 + row 01022 + row 01023)	0102	60,000
Expenses on special purpose vehicles	01021	10,000
- Of which contrary to destination	010 211	10,000
Expenses for economic activity provided by the statute	01022	-
Other expenses (excluding economic activity expenses)	01023	50,000
- Of which other expenses used for purposes not provided for in the statute	010 231	-
Expenses from means obtained from percentage designation	01024	-
- Of which not used for the purpose mentioned in point 27 GD no. 1286 of 30.11.2016	010 241	-
Amount for taxation (row 010211 + row 010231 + row 010241)	020	10,000
Tax-exempt income (row 0101 - row 0102 - row 020)	030	45,000
Income tax not payable (row 030 x row 050)	040	5,400
Income tax rate,%	050	12
Total tax paid (row 020 x row 050)	060	1,200

At the same time, by completing Annex 1D to the Income Tax Report for non-commercial organizations (form ONG17), non-commercial organizations benefiting from the percentage designation will complete the Financial Report on the usage of the percentage designation amounts.

Example 4

In 2017, the non-commercial organization obtained income from percentage designation in the

amount of 3,000 MDL. Which were used during two tax periods as follows:

- In 2017, 1,000 MDL were used for public benefit activities;
- During 2018, 500 MDL were used for social, moral, cultural or charitable activities and 300 MDL for covering the administrative expenses of the organization;
- During 2019, 500 MDL were used for public benefit activities and 500 MDL for social, moral, cultural or charitable activities.

After the expiry of the period of use of the percentage designation amounts, the non-commercial organization has the obligation to report the use of those means with the submission of the Return (form ONG17). For example, for 2019 the organization will complete Annex 1D to the Return as follows:

Table 3

Indicator	Tax period in which the percentage designation was made 2017	The first tax period after the tax period in which the percentage designation was made 2018	The second tax period after the tax period in which the percentage designation was made 2019	Amounts remaining from the percentage designation at the end of the tax period 2020
1	2	3	4	5
Percentage designated amounts	3,000	X	X	X
Amount of expenses TOTAL	1,000	800	1,000	X
Expenses incurred for public benefit activities	1,000	0	500	X
Expenses incurred for social, moral, cultural or charitable activities	0	500	500	X
Coverage of administrative expenses	0	300	0	X
Percentage designation amounts remaining at the end of the tax period	X	X	X	two hundred

Thus, taking into account the data from the example, we find that during two periods 2,800 MDL were used, and the amount of 200 lei remained unused, respectively this amount is to be returned to the budget within by the deadline for submitting the report on the use of the percentage designation amounts (deadline for submitting the Return – March 25).

V. SUBMISSION OF OTHER TAX REPORTS

The non-commercial organization that during the fiscal year makes payments for the benefit of individuals who do not carry out entrepreneurial activity, as well as payments for the benefit of its employees submit to the territorial tax body the tax reports provided by [art.92 of the Tax Code](#):

- Report on withholding of income tax, compulsory health insurance premiums and calculated compulsory state social insurance contributions (IPC form);
- Information note on the salary and other payments made by the employer for the benefit of employees, as well as payments paid to residents from sources other than the salary and income tax withheld from these payments (IALS form);
- Information note on the tax withheld from sources other than the salary paid to non-residents (INR form).

Information concerning the application of the income tax rate by the non-commercial organization at the payment for the benefit of individuals of different types of income is presented in Table 2.

Table 2

No.	Type of payment	Tax withholding rate	Income source code in the IRV14 report	Note to the article of the Tax Code
1.	Payment of income of the individual based on the individual employment contract and the civil contract, including income specified in art.71 lett.n) and o) of the Tax Code paid for the benefit of non-residents	Preliminary withholding with the rates provided by art.15 lett.a) of the Tax Code	SAL	art.88 (1), art.88 (5) and art.71 (n,o), art.74 (1)
2.	Payment of income in the form of interest for the benefit of individuals	Prior withholding at a 15% rate	DOB	art.89
3.	Payment of income for the benefit of individuals for the purchase of goods and other income obtained by them according to art.18 of the Tax Code	Prior withholding at a 12% rate	PL	art.90
4.	Payment of income exempt from prior withholding of income tax at the source of payment	Tax exempted	PLs)	art.90
5.	Payment of income of the individual for the lease of movable and immovable property, except for the lease of agricultural land	Final withholding at a 10% rate	FOL	art.90 ¹ (3)
6.	Royalty paid for the benefit of individuals	Final withholding at a 12% rate	ROY	art.90 ¹ (3 ¹)
7.	Winnings from promotional companies, gambling, except lotteries / sports betting	Final withholding at a 18% rate	PUB	art.90 ¹ (3 ³)
8.	Payment of the income of the individual for the purchase of crop, horticulture and animal husbandry products	Final withholding at a 5% rate	LIV	art.90 ¹ (3 ⁵)
9.	Payment of income of the individual on the income obtained by commissioners related to sale through units of consignment trade of goods	Final withholding at a 10% rate	CSM	art. 90 ¹ (3 ⁶)

10.	Royalty for non-residents	Withholding of non-resident's income at a 12% rate	ROYb)	art.91
11.	Interest for non-residents	Withholding of non-resident's income at a 12% rate	DOBb)	art.91
12.	Capital increase for non-residents	Withholding of non-resident's income at a 12% rate	CC	art.91
13.	Dividends paid to the non-resident	Withholding of non-resident's income at a 6% rate	DIVb)	art.91
14.	The amount withdrawn from the share capital, related to the increase of the share capital from the distribution of net profit and/or other sources found in equity between shareholders (associates), during 2010-2011 inclusive, in accordance with the participation quota deposited in the share capital	Withholding of non-resident's income at a 15% rate	RCSb)	art.91
15.	Payments directed for payment to the non-resident related to the income from art.71, except for the dividends and amounts specified in art.901, para.(3 ¹), third dash of the Tax Code	Withholding of non-resident's income at a 12% rate	PLT	art.71

Also, a non-commercial organization that during the fiscal year makes payments for the benefit of individuals who do not carry out entrepreneurial activity, as well as payments for the benefit of its employees, based on the provisions of art.92 of the Tax Code by March 1st of the fiscal year immediately following that in which the payments were made, presents to the beneficiary of these payments⁷:

- Information on the type of income paid;
- Its amount;
- The amount of exemptions granted⁸;
- Amount of deductions provided by art. 36 para.(6) and (7) of the Tax Code;
- The amount of tax withheld, in case of withholding.

If corrections are made to the submitted information⁹, the non-commercial organization is obliged to inform the beneficiary of the payments within 15 working days from the date of the amendment or issuance of the decision on the case of tax infringement.

⁷except for those who obtained income according to art.901

⁸according to art.33-35 of the Tax Code

⁹according to art.92 para.(3)