

NGO Registrations in Pakistan

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A charitable institution or NGO is established for the benefit of society. It may make a profit, but this profit should be utilized for expansion of that institute. The members, trustees or other particular persons who regulate or influence the organization may not use the profit of the Non profit institute for their personal benefits.

Why should one make Non Profit Organizations;

Some of the benefits of establishing and registering a charitable institute / Non-Profit Organization under Pakistani law are as under:

- (a) Tax Exemption for all activities under Income Tax Ordinance 2001 and Income Tax Rules 2002.
- (b) Tax Relaxation for the donors against donations made to such an institute/NPO.
- (c) Some of the various laws that deal with the issue confer the status of artificial legal person to the organization and hence the assets owned by such an organization shall be held in perpetuity and recognition as a bona fide foundation.

Procedure

In order to gain all the benefits discussed above, the procedure of a charitable institute should be in two stages.

Firstly a charitable institute should be registered under any of relevant laws discussed below.

Secondly the same institute should apply on a separate application form for approval as a non profitable institute and tax exemption under appropriate Income Tax Laws discussed below.

An incorrect postulate is that once a charitable institute is registered, it is automatically registered with the FBR. This is wrong and rumor and requires ruminaton.

Legal specifications/appropriate laws

The numerous laws that deal with charitable institutions/non-profit organizations are as under:

- i. **Under Companies Ordinance 1984:** Under Section 42, the Ordinance allows a company may be incorporated for objectives such as Culture, Religion, Charity, Sport, Education, Commerce, Arts and any other.
- ii. **Under Societies Registration Act 1860:** Associations, Clubs, Societies etc are all registered under this. Fine Arts, Science, Museums, Libraries, educational endeavors, think tanks etc may all be registered under these.
- iii. **Under Voluntary Social Welfare Organizations Ordinance 1961:** The welfare of the disadvantaged members of society women, children, oppressed religious and ethnic minorities and other backward classes of people , delinquents, handicapped people, beggars, destitute and poor, senior citizens, socially handicapped people or for parents education, social welfare in general etc should get registered.
- iv. **Under Trusts Act 1882:** Public Charitable Trusts may be formed under this by executing a trust deed, under Trust Act 1882.

Nonprofit Organizations in Pakistan may be registered by choosing any one of these, namely:

- Society
- Trust
- nonprofit company with limited liability
- social welfare agencies

1. Societies Registration Act 1860

A society may be established under the Societies Registration Act, 1860, it requires minimum seven person or more which of them three must be the members of the Managing Committee. A Memorandum and Rules and Regulations of Association must be printed to establish a society. These documents must contain clauses which not only state the objectives for which the society is being established, but also how it will operate. This is considered to be one of the more **lenient Acts** with respect to registration requirements and to accounting and audit regulations.

The Memorandum of Association should have the following particulars:

- The name and registered office address of the society.
- The names, addresses and occupation of each present member of the Managing Committee.
- For an educational society, the academic certificates of all the subscribers must be produced.
- Copies of the National Identity Cards of the office bearers.
- Rules and Regulations of the society or Articles of Association duly signed by all office bearers.
- Rent agreement for the office premises.

Memorandum of Association & the Rules and Regulations for governing the society must be laid and filed with the Registrar of Societies. The Rules and Regulations, certified by at least 3 members of the Managing Committee, must contain obligatory clauses relating to:

- Membership
- General Body and Managing Committee
- Procedures relating to accounting and audit
- Notices for meetings
- Meetings and quorum
- The manner of elections and removal of officers
- Dissolution

2. Trusts Act 1882

A trust may be established under the Trusts Act, 1882. To form a trust there should be one creator, i.e. the trustee and a person for whose benefit trust is created i.e. beneficiary. Beneficiaries should not be specific individuals but it must be society or a specific section or class off society.

A public charitable trust is established to support or to provide benefit to the society or a certain class of society. There are no specific laws for public trusts. However, the rules in the Trust Act of 1882 may be applied to the public and charitable trusts. In the case of public charitable trusts, the conditions governing private trusts are equally important. However, if the objectives are not clear, unlike the private trusts, these trusts would be sustained as long as there is an intention of charity.

- Trust must declare some property, whether in cash or in capital assets (land or buildings)
- Trust's objectives must be charitable or for the benefit of society

Followings are the requirements for application of registration for Trust:

- Preparation of the trust deed, that is, i.e. declaration of having created a public charitable trust.
- Particulars of documents creating the trust.
- Particulars of the trustees and the beneficiaries.
- Details of what the trust property is going to be. There is no minimum value of property for starting a trust. If the property is an immovable property then the transfer deed shall be on a stamp paper on the value of the property and it shall be registered.

3. Companies Ordinance 1984

A nonprofit company is registered under Section 42 of the Companies Ordinance, 1984 as a public company with limited liability provided it meets the following criteria:

- It directs, or it intends to direct its profits, if any, or any other form of income from the business carried out, in advancing its objectives.

- It disallows the payment of any return to its members.

It is registered through the SECP.

Approval of a Non-Profit Organisation

Income tax benefits are examined under this section for setting up a non-profit organisation. The references to the “Ordinance” and the “Rules” in this section shall mean the Income Tax Ordinance 2001 and the Income Tax Rules 2002 respectively.

The definition of a “non-profit organization” is written in Clause 36 of Section 2 of the Ordinance:

“2(36) “non profit organization” means any person

- A) Established for religious, charitable or educational purposes or for the promotion of amateur sport;
- B) Which is registered under any law as a nonprofit organization and in respect of which the Commissioner has issued a ruling certifying that the person is a nonprofit organization for the purposes of this Ordinance; and
- C) None of the income or assets of the person confers, or may confer a private benefit on any other person.”

Tax Benefits

Charities approved by the Commissioner of Income Tax are exempt from the levy of minimum tax of 0.50% of their turnover.

Charitable donations are entitled to a tax rebate against tax liability.

The following heads of income are exempt from tax for any Non Profit Organisation or Trust established under any legal obligation (e.g. Societies Registration Act 1860, Muslim Waqf, the Social Welfare Agencies (Registration and Control) Ordinance 1961, Charitable Endowments Act 1890 or the Companies Ordinance 1984). The exemptions are applicable to the extent the monies are actually applied or set apart for application to the religious or charitable purposes of such organisation in Pakistan:

- Profits on investments in the securities of the Federal Government.
- Income from property.
- Voluntary contributions including donations and subscriptions.
- Foreign grants.
- Profit on debt from scheduled banks.
- Grants received from Federal, Provincial or District Governments