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Charitable organization

A **charitable organization** is a type of non-profit organization (NPO). It differs from other types of NPOs in that it centers on philanthropic goals as well as social well-being (e.g. charitable, educational, religious, or other activities serving the public interest or common good).

The legal definition of charitable organization (and of charity) varies according to the country and in some instances the region of the country in which the charitable organization operates. The regulation, tax treatment, and the way in which charity law affects charitable organizations also varies.

Financial figures (e.g., tax refund, revenue from fundraising, revenue from sale of goods and services or revenue from investment) are important indicators to assess the financial sustainability of a charity, especially to charity evaluators. This information can impact a charity's reputation with donors and societies, and thus, the charity's financial gains.

Charitable organizations often depend partly on donations from for-profit-organizations. Such donations to charitable organizations represent a major form of corporate philanthropy.^[1]

History

Until the mid-18th century, charity was mainly distributed through parish relief (such as the English poor laws of 1601), churches, almshouses and bequests from the rich. Charities were also responsible for education, health, housing and even prisons. Almshouses were established throughout Europe in the Early Middle Ages to provide a place of residence for poor, old and distressed people - the first recorded almshouse was founded in York by King Athelstan in the 10th century.^[2]

Enlightenment charity

It was in the Enlightenment era that charitable and philanthropic activity among voluntary associations and rich benefactors became a widespread cultural practice. Societies, gentleman's clubs, and mutual associations began to flourish in England and the upper-classes increasingly adopted a philanthropic attitude toward the disadvantaged. This new social activism was channeled into the establishment of charitable organizations; these proliferated from the middle of the century.^[3]

This emerging upper-class fashion for benevolence resulted in the incorporation of the first charitable organizations. Captain Thomas Coram, appalled by the number of abandoned children living on the streets of London, set up the Foundling Hospital in 1741 to look after these unwanted orphans in Lamb's Conduit Fields, Bloomsbury. This was the first such charity in the world^[4] and served as the precedent for incorporated associational charities everywhere.^[5]

Jonas Hanway, another notable philanthropist of the era established The Marine Society in 1756 as the first seafarer's charity, in a bid to aid the recruitment of men to the navy.^[6] By 1763, the Society had recruited over 10,000 men and it was incorporated by an Act of Parliament in 1772. Hanway was also instrumental in establishing the Magdalen Hospital to rehabilitate prostitutes. These organizations were funded by subscription and run as voluntary associations. They raised public awareness of their activities through the emerging popular press and were generally held in high social regard - some charities received state recognition in the form of a royal charter.

Charities also began to adopt campaigning roles, where they would champion a cause and lobby the government for legislative change. This included organized campaigns against the ill treatment of animals and children and the campaign that eventually succeeded in ending the slave trade throughout the British Empire at the turn of the 19th century.

This period also saw growing philosophical debate between those who championed state intervention and those who believed that private charities should provide welfare. Thomas Malthus, the political economist, criticized poor relief for paupers on economic and moral grounds and proposed leaving charity entirely to the private sector.^[7] His views were very influential and informed the Victorian *laissez-faire* attitude toward state intervention for the poor.

Growth during 19th Century[edit]

During the 19th century, a profusion of charitable organizations were set up to alleviate the awful conditions of the working class in the slums. The Labourer's Friend Society, chaired by Lord Shaftesbury in the United Kingdom in 1830, was set up to improve working class conditions. This included the promotion of allotment of land to labourers for "cottage husbandry" that later became the allotment movement. In 1844 it became the first Model Dwellings Company - organizations that sought to improve the housing conditions of the working classes by building new homes for them, at the same time receiving a competitive rate of return on any investment. This was one of the first housing associations, a philanthropic endeavour that flourished in the second half of the nineteenth century brought about by the growth of the middle class. Later associations included the Peabody Trust and the Guinness Trust. The principle of philanthropic intention with capitalist return was given the label "five per cent philanthropy".^[8]

There was strong growth in municipal charities. The Brougham Commission led on to the Municipal Corporations Act 1835 which reorganized local charities by incorporating them into one entity under supervision from the local government.

Charities at the time, including the Charity Organization Society (est. 1869) tended to discriminate between the 'deserving poor' who would be provided with suitable relief and the 'underserving' or 'improvident poor' who were regarded as the cause of their woes through their idleness. They also tended to be against the state provision of welfare, due to its perceived demoralizing effect. Although minimal state involvement was the dominant philosophy of the period, there was still significant government involvement in the shape of statutory regulation and even limited funding.^[9]

Philanthropy became a very fashionable activity among the expanding middle classes in Britain and America. Octavia Hill and John Ruskin were an important force behind the development of social housing and Andrew Carnegie exemplified the large scale philanthropy of the newly rich in industrialized America. In *Gospel of Wealth* (1889), Carnegie wrote about the responsibilities of great wealth and the importance of social justice. He established public libraries throughout the English-speaking countries^[10] as well as contributing large sums to schools and universities.

It was only towards the end of the century with the advent of the New Liberalism and the innovative work of Charles Booth on documenting working class life in London that attitudes towards poverty began to change, which led to the first social liberal welfare reforms, including old Age pensions.^[11] and free school meals.^[12] During the 20th century, charitable organizations such as Oxfam (est. 1947) greatly expanded, becoming large, multinational, non-governmental organizations with very large budgets.

In various countries

Australia

The definition of charity in Australia is derived through English common law, originally from the Charitable Uses Act 1601, and then through several centuries of case law based upon it. In 2002, the federal government established an inquiry into the definition of a charity. That inquiry proposed that the government should legislate a definition of a charity, based on the principles developed through case law. This resulted in the Charities Bill 2003. The bill incorporated a number of provisions, such as limitations on charities being involved in political campaigning, which many charities saw as an unwelcome departure from the case law. The government then appointed a Board of the Taxation inquiry to consult with charities on the bill. As a result of widespread criticism from charities, the government decided to abandon the bill.

As a result, the government then introduced what became the Extension of Charitable Purpose Act 2004. This bill did not attempt to codify the definition of a charitable purpose; it merely sought to clarify that certain purposes were indeed charitable, whose charitable status had been subject to legal doubts. These purposes were: childcare; self-help groups; closed/contemplative religious orders.^[13]

To publicly raise money, charities in Australia are required to register under the state jurisdiction within which they intend to raise funds and must be registered in each and any state within which they intend to publicly raise funds. For example, in Queensland charities must register with the QLD Office of Fair Trading.^[14] An example of a registered charity in Queensland, Australia is Sunny kids so whilst Sunny kids can publicly raise funds for charitable purposes, and whilst such donations are tax deductible in every Australian state and territory - the funds themselves may only be raised in QLD as this is the only state within which the charity is registered to raise funds. In order for the charity to raise funds in the remaining seven Australian states and territories, it would need to register in each state or territory individually. Also, any charity fund raising online must have approval for fund raising in every state and territory that requires them to do so in Australia. An

example is Donate Your Day Ltd,^{[15][16]} which is a New South Wales based charity but purely an online charity. It must be registered under every state and territory legislation that requires this which is currently New South Wales, Queensland, Victoria, Tasmania, Western Australia, and the Australian Capital Territory.

Needless to say, many Australian charities are calling on federal, state, and territory governments to unify legislation to allow registration in a single state or territory to allow charities to raise funds in all 8 Australian states and territories.

Canada

Main article: Canadian Charity Law

Charities in Canada must be registered with the Charities Directorate^[17] of the Canada Revenue Agency. According to the Canada Revenue Agency:^[18]

A registered charity is an organization established and operated for charitable purposes, and must devote its resources to charitable activities. The charity must be resident in Canada, and cannot use its income to benefit its members. A charity also has to meet a public benefit test. To qualify under this test, an organization must show that:

- its activities and purposes provide a tangible benefit to the public
- those people who are eligible for benefits are either the public as a whole, or a significant section of it, in that they are not a restricted group or one where members share a private connection, such as social clubs or professional associations with specific membership
- the charity's activities must be legal and must not be contrary to public policy

To register as a charity, the organization has to be either incorporated or governed by a legal document called a trust or a constitution. This document has to explain the organization's purposes and structure.

Singapore[edit]

The legal situation in Singapore is regulated in the Singapore Charities Act (Chapter 37).^[19] Charities in Singapore must be registered with the Charities Directorate of the Ministry of Community Development, Youth and Sports.^[20] You can also find specific organisations in the List of voluntary welfare organisations in Singapore which are member of the National Council of Social Service (NCSS) which is operated by the Ministry of Social and Family Development.

United Kingdom[edit]

Charity law within the UK varies between (i) England and Wales, (ii) Scotland and (iii) Northern Ireland, but the fundamental principles are the same. Most organisations that are charities are required to be registered with the appropriate regulator for their jurisdiction, but significant exceptions apply so that many organisations are bona fide charities but do not appear on a public register. The registers are maintained by the Charity Commission for England and Wales and for Scotland by the Office of the Scottish Charity Regulator. The Charity Commission for Northern Ireland will maintain a register in due course (see below). Organizations applying must meet the specific legal

requirements summarized below, and have filing requirements with their regulator, and are subject to inspection or other forms of review.

England and Wales[edit]

Definition of charitable organisation[edit]

Section 1 Charities Act 2011 provides the definition in England and Wales:

- (1) For the purposes of the law of England and Wales, “charity” means an institution which—
- (a) is established for charitable purposes only, and
 - (b) falls to be subject to the control of the High Court in the exercise of its jurisdiction with respect to charities.

The Charities Act 2011 provides the following list of charitable purposes.^[21]

1. the prevention or relief of poverty
2. the advancement of education
3. the advancement of religion
4. the advancement of health or the saving of lives
5. the advancement of citizenship or community development
6. the advancement of the arts, culture, heritage or science
7. the advancement of amateur sport
8. the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
9. the advancement of environmental protection or improvement
10. the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
11. the advancement of animal welfare
12. the promotion of the efficiency of the armed forces of the Crown or of the police, fire and rescue services or ambulance services
13. other purposes currently recognized as charitable and any new charitable purposes which are similar to another charitable purpose.

A charity must also provide a public benefit.^[22]

Before the Charities Act 2006, which introduced the definition now contained in the 2011 Act, the definition of charity arose from a list of charitable purposes in the Charitable Uses Act 1601 (also known as the Statute of Elizabeth), which had been interpreted and expanded into a considerable body of case law. In *Commissioners for Special Purposes of Income Tax v. Pemsel* (1891), Lord McNaughten identified four categories of charity which could be extracted from the Charitable Uses Act and which were the accepted definition of charity prior to the Charities Act 2006.

1. the relief of poverty,

2. the advancement of education,
3. the advancement of religion, and
4. other purposes considered beneficial to the community.

English charities - such as Age UK, RSPB ^[23] and Must Have Gifts^[24] - must comply with the 2011 Act regulating matters such as charity reports and accounts and fundraising.

Charitable organization structure[edit]

As of 2011, there are a number of types of legal structure for a charity in England and Wales.

1. Unincorporated association
2. Trust
3. Company limited by guarantee
4. Another incorporation, such as by royal charter
5. Charitable Incorporated Organization

The unincorporated association is the most common form of organization within the voluntary sector in England and Wales.^[25] An unincorporated association is essentially a contractual arrangement between individuals who have agreed to come together to form an organization for a particular purpose. An unincorporated association will normally have as its governing document, a constitution or set of rules, which will deal with such matters as the appointment of office bearers, and the rules governing membership. The organization is not though a separate legal entity. So it cannot start legal action, it cannot borrow money, and it cannot enter into contracts in its own name. Also the officers can be personally liable if the charity is sued or has debts.^[26]

A trust is essentially a relationship between three parties, the donor of some assets, the trustees who hold the assets and the beneficiaries (those people who are eligible to benefit from the charity). When the trust has charitable purposes, and is a charity, the trust is known as a charitable trust. The governing document is the trust deed or declaration of trust, which comes into operation once it is signed by all the trustees. The main disadvantage of a trust is that, as with an unincorporated association, it does not have a separate legal entity and the trustees must themselves own property and enter into contracts. The trustees are also liable if the charity is sued or incurs liability.

A company limited by guarantee is a private limited company where the liability of members is limited. A guarantee company does not have a share capital, but instead has members who are guarantors instead of shareholders. In the event of the company being wound up, the members agree to pay a nominal sum which can be as little as £1. A company limited by guarantee is a useful structure for a charity where it is desirable for the trustees to have the protection of limited liability. Also, the charity has legal

personality, and so can enter into contracts, such as employment contracts in its own name.^[27]

A small number of charities are incorporated by royal charter, a document which creates a corporation with legal personality (or, in some instances, transforms a charity incorporated as a company into a charity incorporated by royal charter). The charter must be approved by the Privy Council before receiving royal assent. Although the nature of the charity will vary depending on the clauses enacted, generally a royal charter will offer a charity the same limited liability as a company and the ability to enter into contracts.

The Charities Act 2006 legislated for a new legal form of incorporation designed specifically for charities, the Charitable Incorporated Organization, with powers similar to a company but without the need to register as a company. Becoming a C.I.O. was only made possible in 2013, with staggered introduction dates, with the charities with highest turnover eligible first.

The word Foundation is not generally used in England and Wales. Occasionally, a charity will use the word Foundation as part of its name e.g. British Heart Foundation, but this has no legal significance and does not provide any information about either the work of the charity or how it is legally structured. The structure of the organization will be one of the types of structure described above.

Charity registration[edit]

Charitable organizations that have an income of more than £5,000, and for whom the law of England and Wales applies, must register with the Charity Commission for England and Wales, unless they are an "exempt" or "excepted" charity.^{[28][29]} For companies, the law of England and Wales will normally apply if the company itself is registered in England and Wales. In other cases, if the governing document does not make it clear, the law which applies will be the country with which the organization is most connected.^[30]



When an organization's income does not exceed £5,000, it is not able to register as a charity with the Charity Commission for England and Wales. It can, however, register as a charity with HM Revenue and Customs for tax purposes only. With the rise in mandatory registration level, to £5,000 by The Charities Act 2006, smaller charities can be reliant upon H.M.R.C. recognition to evidence their charitable purpose and confirm their not-for-profit principles.^[31]

Some charities which are called exempt charities are not required to register with the Charity Commission and are not subject to any of the Charity Commission's supervisory powers. These charities include most universities and national museums and some other educational institutions. Other charities are excepted from the need to register, but are still subject to the supervision of the Charity Commission. The regulations on

excepted charities have however been changed by the Charities Act 2006. Many excepted charities are religious charities.^[32]

Northern Ireland[edit]

Charities in Northern Ireland are registered with the UK HM Revenue and Customs. The Charity Commission for Northern Ireland was established in 2009^[33] and has received the names and details of over 7,000 organisations that have previously been granted charitable status for tax purposes. The entering of these organisations onto a new and temporary list under the heading of "organisations that have previously been known as charities" is continuing. This list is not the new register, but will be made publicly available on the CCNI website.

Scotland[edit]

The 20,000 or so charities in Scotland are registered with the Office of the Scottish Charity Regulator (OSCR), which also publishes a Register of charities online.

Taxation of charities[edit]

Charitable organisations, including charitable trusts, are eligible for a complex set of reliefs and exemptions from taxation in the UK. These include reliefs and exemptions in relation to income tax, capital gains tax, inheritance tax, stamp duty land tax and value added tax. These tax exemptions have led to criticisms that private schools are able to use charitable status as a tax avoidance technique rather than because they offer a genuine charitable good.^[34]

Ireland[edit]

There is no legal framework for the registration of charities in Ireland. The Office of the Revenue Commissioners, Charities Section maintains a database of organisations ^[35] to which they have granted charitable tax exemption. In granting tax exemption, Charities Section give the body a CHY reference number. The full list of bodies granted exemption is published on the Revenue Commissioners website.



The Irish Nonprofits Database was created by Irish Nonprofits Knowledge Exchange (INKEx) to act as a repository for regulatory and voluntarily disclosed information about Irish public benefit nonprofits. The organisation is currently looking for government funding to continue to provide the service.

United States[edit]

In the United States, a charitable organization is an organization operated for purposes that are beneficial to the public interest.^[36] There are different types of charitable organization.

Every U.S. and foreign charity that qualifies as tax-exempt under Section 501(c)(3) of the Internal Revenue Code is considered a "private foundation" *unless* it demonstrates to the IRS that it falls into another category. Generally, any organization that is not a

private foundation (i.e., it qualifies as something else) is usually a public charity as described in Section 509(a) of the Internal Revenue Code.^[37]

In addition, a private foundation usually derives its principal funding from an individual, family, corporation, or some other single source and is more often than not a grantmaker and does not solicit funds from the public. In contrast, a foundation or public charity generally receives grants from individuals, government, and private foundations, and while some public charities engage in grantmaking activities, most conduct direct service or other tax-exempt activities.

This leads to another distinction: Foundations that are generally grantmakers (i.e. they use their endowment to make grants to other organizations, which in turn carry out the goals of the foundation indirectly) are usually called "grantmaker" or "non-operating" foundations. These of course tend to be private foundations, but some private foundations (and most public charities) use their received funds to directly engage in service activities themselves and achieve their goals "personally," so to speak.

Examples of a non-operating private foundation are the Rockefeller Foundation and the Bill & Melinda Gates Foundation.

Examples of operating foundations or public charities include the Hidaya Foundation, Elizabeth Glaser Pediatric AIDS Foundation, American Cancer Society, Inc., Make a Wish Foundation, and the World Wildlife Fund.

The requirements and procedures for forming charitable organizations vary from state to state, as do the registration and filing requirements for charitable organizations that conduct charitable activities, solicit charitable contributions, or hire professional fundraisers.^{[38][39]} So in practice the detailed definition of "charitable organization" is determined by the requirements of state law where the charitable organization operates, and the requirements for federal tax relief by the IRS.

Resources exist to provide information, even rankings, of US charities.^[40]

According to studies by the Chronicle of Philanthropy, those making over \$100,000 a year give a smaller share, averaging 4.2%, to charity than those making between \$50,000 and \$75,000, who give an average of 7.6%.^{[41][42]}

Federal tax relief[edit]

Federal tax law provides tax benefits to nonprofit organizations recognized as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code (IRC). The benefits of 501(c)(3) status include exemption from federal income tax as well as eligibility to receive tax deductible charitable contributions. To qualify for 501(c)(3) status most organizations must apply to the Internal Revenue Service (IRS) for such status.^[43]

There are several requirements that must be met for a charitable organization to obtain 501(c)(3) status. These include the organization being organized as a corporation, trust,

or unincorporated association, and the organization's organizing document (such as the articles of incorporation, trust documents, or articles of association) must limit its purposes to being charitable, and permanently dedicate its assets to charitable purposes. The organization must refrain from undertaking a number of other activities such as participating in the political campaigns of candidates for local, state or federal office, and must ensure that its earnings do not benefit any individual.^[36] Most tax exempt organizations are required to file annual financial reports (IRS Form 990) at the state and federal level. A tax exempt organization's 990 and some other forms are required to be made available to public scrutiny.

The types of charitable organization that are considered by the IRS to be organized for the public benefit include those that are organized for:

- Relief of the poor, the distressed, or the underprivileged,
- Advancement of religion,
- Advancement of education or science,
- Construction or maintenance of public buildings, monuments, or works,
- Lessening the burdens of government,
- Lessening of neighborhood tensions,
- Elimination of prejudice and discrimination,
- Defense of human and civil rights secured by law, and
- Combating community deterioration and juvenile delinquency.

A number of other organizations, including those organized for religious, scientific, literary and educational purposes, as well as those for testing for public safety and for fostering national or international amateur sports competition, and for the prevention of cruelty to children or animals, may also qualify for exempt status.

The IRS, except in rare circumstances, refers to all organizations qualifying for exemption under 501(c)(3) as charities.[†]

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