

Charitable organisations in Italy: overview

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A Q&A guide to charity law and practice in Italy.

The country-specific Q&A guide provides a structured overview of the key practical issues concerning charity law in this jurisdiction, including the legal framework and legal definition of a charity; principal sources of law; forms of organisation used for charitable purposes, and the qualification requirements/formalities to set these up; main regulatory authorities; management; accounting/financial reporting requirements; tax; overseas charities; and reform.

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Overview and main trends

1. What is the historical background to charity law and charitable organisations?

The Italian legal framework does not provide a clear definition of charity. In recent years the term “third sector” has been adopted to identify, among others, volunteering, social assistance and charitable purposes. Entities that actively carry on such charitable activities include non-governmental and non-profit-making organisations or associations and foundations.

Italian law allows anyone the opportunity to form an association or a foundation, and Article 18 of the Constitution protects this right. Associations and foundations are the most common legal form for charitable organisations and are regulated by the Civil Code.

In the 1990s, specific provisions were introduced to regulate and support fundraising activities for non-profit purposes, in particular through several tax reliefs. In this respect, one of the most important amendments was the introduction in 1997 of the status of ONLUS (*Organizzazione non lucrativa di utilità sociale (non-profit organisation of social utility)*), which allows non-profit organisations pursuing social purposes to benefit from a variety of tax exemptions.

On 6 June 2016, the Third Sector Reform Law was published in the *Official Journal*. This provides general principles for reform and harmonisation of the third sector. It delegates powers to the government to implement such principles through one or more decrees.

The reform includes:

- A review of the Civil Code regarding associations and foundations.
- Reorganisation and harmonisation of tax reliefs and regulations applicable to third sector entities (for example, reviewing the definition of a non-commercial entity for tax purposes, rationalising tax benefits and new measures for raising venture capital and, more generally, for funding the third sector).

2. Are independent charitable organisations common and significant? What is the current size and scope of the sector and the main trends?

Official data on the size and scope of charitable organisations and trends in the third sector are in the national census of 2011.

From 2001 to 2011, the number of non-profit institutions increased by 30%, with related employment growth.

The third sector has more than 300,000 non-profit institutions, mainly incorporated as an association. Unrecognised associations are around 200,000, while recognised ones are about 68,000 (see [Question 4](#)). Even though other legal forms have become more common (especially foundations and social co-operatives), associations are still the main legal form adopted by charitable organisations, particularly non-profit institutions. Although associations are active in a number

of fields, most workers are employed by entities carrying out activities related to social and healthcare assistance and civil protection.

The combined income of the Italian third sector exceeds EUR60 billion per year, of which around 65% is from private funding (33% of this is from voluntary donations and/or contributions by entities' members and by private individuals). In 2011, associations and foundations collected over 65% of the total income, confirming the key role played by such organisations in the third sector (source: <http://censimentoindustriaeservizi.istat.it>).

Legal framework

3. Is there a legal definition of a "charity"? What are the principal sources of law and regulations relating to charitable organisations and activities?

Definition of charity

Italian law does not provide a legal definition of charity, except for the concept of ONLUS (see [Question 1](#)), which relates to a special tax regime.

Article 1 of Law No. 106 of 6 June 2016 (Third Sector Reform Law) defines the third sector as an ensemble of private non-profit entities pursuing civic, social or solidarity purposes.

Principal sources of law

The legal and regulatory framework for charitable organisations includes:

- Civil Code (*Book I, Title II, Chapter I and II*). Articles 12 to 38 cover associations and foundations.
- Presidential Decree No. 361 of 10 February 2000, which regulates procedures concerning recognition by the state of private legal entities.
- Presidential Decree No. 917 of 22 December 1986 (Tax Code), for income tax treatment.
- Article 6 of Decree No. 601 of 29 September 1973, which provides a specific corporate tax regime for non-profit entities with legal personality.
- Presidential Decree No. 633 of 26 October 1972, for VAT purposes (VAT Decree).
- Legislative Decree No. 460 of 4 December 1997, introducing a specific tax regime applicable to ONLUS (ONLUS Decree).
- Law No. 106 of 6 June 2016 (Third Sector Reform Law).
- Legislative Decree No. 117 of 3 July 2017 (Code of the Third sector), introducing a comprehensive reform of the legal and tax regime applicable to entities operating in the third sector (third sector entities, TSE). However, the entry in force of the main innovations provided for by this reform (for example, the new optional tax regime or repeal of the ONLUS Decree) is subject to the European Commission's authorisation, which has not yet been received.

Legal bodies

4. What are the forms of organisations that are used for charitable purposes? What are their advantages/disadvantages?

Italian law provides many alternative legal forms that can be used for charitable aims. The ONLUS Decree includes most of these in the list of entities that can acquire ONLUS status and qualify for tax benefits.

The most common legal forms used for charitable purposes are associations and foundations (other common forms include committees, co-operatives and social enterprises).

Associations

An association is a collective entity formed by at least two associated persons with common defined non-profit purposes, usually altruistic and/or ideal. Associations are essentially person based non-profit organisations (a fundamental requirement is a plurality of members). The Civil Code distinguishes the following two categories of associations (both can acquire ONLUS status).

Association with legal personality (recognised association (*associazione riconosciuta*)). This is an association recognised by a competent public authority, and registered as a legal entity in the legal persons register kept by the public authority (the local representative of the national government (*prefettura*) or the regional government). The main advantages are:

- As a legal entity, it is autonomous from its members, and its assets are separate from the personal assets of its members and directors. Members are only liable for the association's obligations up to their membership fee and any additional contributions.
- It can use special benefits provided by law, such as the ability to call up contributions from public institutions.
- It can be recorded in the cadastre (public real estate registry) as owner of real estate assets.
- It can receive inheritances and gifts.

The main disadvantages are:

- The incorporation of a recognised association requires a public notary deed and the procedure for legal recognition can be complex.
- It must comply with specific corporate governance requirements (see *Questions 5 and 7*), transformation and dissolution of the entity, and allocation of residual assets.
- Capital must be allocated to the association, to secure its solvency towards third parties. However, a minimum amount of capital is not specified.

Association without legal personality (unrecognised association (*associazione non riconosciuta*)). This is not recognised by a public authority, so it is not a legal entity. The main advantages are:

- Incorporation is not subject to specific formalities, although a specific form is required to receive particular types of

property (for example, real estate) as a contribution.

- Corporate governance is freely agreed among the members, without specific requirements and limitations, except for those relating to specific assets or required for ONLUS status.

The main disadvantages are:

- Not being a legal entity, an unrecognised association and its members or directors do not have full separation of assets or limited liability. However, there is a partial financial separation (imperfect financial autonomy), according to which the members are only responsible if the association's assets cannot satisfy all its liabilities.
- Members cannot request division of the association's fund. In case of termination or exclusion of a member, it cannot claim repayment of membership fees and contributions.
- To acquire ONLUS status, its incorporation deed must be registered with the Tax Authority.

Foundations

A foundation is an entity established by one or more parties (individuals and/or entities) to allocate specific assets (for example, money or property) for a defined purpose, that is, generally altruistic and/or ideal. Foundations are essentially property based non-profit organisations (the fundamental requirement is represented by assets dedicated to specific purposes). The main advantages are:

- A foundation is a legal entity, benefiting from full financial autonomy.
- It can be set up by a will.
- A foundation can qualify as an ONLUS.

The main disadvantages are:

- A foundation must be incorporated by public deed and must apply for legal recognition.
- Once it obtains recognition or at least has started activity, it cannot be revoked by the founder or by the founder's heirs.
- It is generally under the control of a public authority.
- There are special requirements and limitations for administration and representation of the foundation.

Specific provisions regulate dissolution of the foundation, in particular liquidation of its assets.

Following the privatisation of state-owned banks (*Decree Law No. 153/1999*) in relation to foundations, participations in these banks were transferred to new institutions (banking foundations (*Fondazioni bancarie*)). They have the following characteristics:

- Private non-profit organisations to pursue social utility objectives and foster economic development.

- They must invest their profits in non-profit activities, such as scientific research, education, fine arts, conservation and promotion of cultural works and activities, and the environment, health and social care for needy members of society.
- They can only carry out entrepreneurial activities if these are directly ancillary to the foundation's social aims.

This reform has resulted in several grant-making foundations in Italy, with a corporate purpose to support and fund non-profit initiatives. Banking foundations cannot qualify as ONLUS.

Other forms

ONLUS is not a different legal form, but a status established by the ONLUS Decree available to different legal forms (see [Question 5](#)). It has fiscal benefits, subject to certain conditions.

Italian contractual law does not provide for a specific definition of a trust. However, since Italy has signed The Hague Convention on the Recognition of Trusts 1985 (Hague Trusts Convention), a trust constituted according to foreign law can be recognised in Italy if it meets the conditions in Article 2 of The Hague Trusts Convention. In particular:

- Assets secured in the trust are distinct and separate from the assets of the settlor, the trustee and the beneficiary.
- Assets secured in the trust are managed by the trustee.
- The trustee must manage and dispose of the trust's assets in accordance with the instructions provided by the trust deed, and in compliance with the law.
- The trustee is accountable for the management of the trust.

If the above conditions are satisfied, a trust can also be regarded as:

- An autonomous taxable person for corporate income tax purposes (*Article 73, Tax Code*).
- An ONLUS, provided that conditions set by the ONLUS Decree are met (*see Italian Tax Authority Circular Letter No. 38, 2011*).
- A Third Sector Entity (TSE). To obtain the tax benefits granted to the new status, the entity must apply to the National Register (not yet established).

5. What are the qualification requirements/formalities to set up these organisations?

Recognised associations

Establishing a recognised association requires a formal procedure and specific documents, in particular:

- The incorporation deed must be a public deed, signed in the presence of a notary or a public official.
- The association's bye-laws, also prepared as a public deed, contain rules to regulate the association, and must be

registered with the Tax Authority.

The notarial deed of incorporation must contain the following:

- Name of the entity and its address.
- Purpose of the entity.
- The entity's assets.
- Internal rules of organisation.
- Rights and obligations of the members and conditions for admittance (and minimum requirements to be a member of the association, even if provisions that prohibit new members are not allowed).

A request for recognition of the legal personality of the association, together with the required documentation, must be submitted to the competent public authority. This can be the local representative of the national government (*prefettura*) or the regional government, depending on the geographical scope of the activities.

Foundations

Establishing a foundation requires the following documents:

- The foundation deed, that is, a unilateral deed containing the will of the founder.
- The endowment act, which disposes assets for allocation to the foundation. This is also a unilateral deed.
- The foundation's bye-laws, which must be prepared as a public deed. It contains the rules that will regulate the foundation, and must be registered with the Tax Authority.

The notarial deed of foundation must include the same information as that for an association, except that it must include rules for payment of returns on the assets instead of minimum requirements to be a member. A request for recognition of the legal personality of the foundation is also required (*see above, [Recognised associations](#)*).

ONLUS

To qualify as an ONLUS, an entity must be registered and obtain official authorisation from the Ministry of Finance (*Article 11, ONLUS Decree*). Article 10 of the ONLUS Decree provides that the incorporation deed and bye-laws of the entity must be drawn up as a public deed or equivalent (private notarised or registered deed) and contain the following:

- Exclusive purpose of social solidarity.
- Prohibition on carrying out activities different from those in the bye-laws, except for activities directly linked to previous ones.
- Prohibition on distributing, even indirectly, to members and third parties any profit, management surplus, funds, reserves or capital.

- Requirement to use any profit or management surplus only for institutional or related activities.
- In case of dissolution, assignment of residual assets to another ONLUS.
- Obligation to draw up annual balance sheets or annual financial statements.
- Membership without time limits and with the right to vote.
- Obligation to insert the term non-profit organisation of social utility or ONLUS in the name and in any communication addressed to the public.

The requirement to pursue a non-profit purpose of social solidarity is met if the entity performs one or more of the following activities (presumed solidarity activity):

- Social assistance and social healthcare.
- Charity.
- Protection and promotion of historic and art property.
- Protection and promotion of nature and environment.
- Protection of culture and art (to the extent public funds are used).
- Scientific research of particular social interest conducted by foundations, universities or research centres.

An ONLUS cannot distribute, even indirectly, profits and surpluses, as well as funds or capital during its whole life. An exception is for indirect charity, when an ONLUS transfers money to another non-profit entity that operates in one of the above sectors, and the transferred funds are used solely for specific social utility projects (*Article 10(2-bis), ONLUS Decree*).

Following the European Commission's authorisation of the measures provided for by the Third Sector Code, the ONLUS Decree will be repealed and the status of ONLUS will be substituted by the third sector entity (TSE) status (*see below*).

Third Sector Entity (TSE)

Under Legislative Decree No. 117 of 3 July 2017 (Code of the Third Sector), associations, foundations and other charitable organisations can choose to obtain TSE status.

To qualify as a TSE, an entity must be registered and obtain official authorisation from the National Register (not yet established by the Ministry of Labour and Social Policy).

The Code of the Third Sector provides a simplified procedure to obtain legal authorisation and precisely identifies the information and the deeds required to apply to the National Register to make them publicly available.

In particular, to set up a TSE entity the following requirements must be met:

- Name of the entity, its legal form and its address.
- Purpose of "public interest". This is broadly defined and includes:

- healthcare;
 - scientific research;
 - education and study,
 - culture, social solidarity and others.
- Prohibition on distributing, even indirectly, to members any profit, management surplus, funds, reserves or capital.
 - Requirement to use any profit or management surplus only for activities of public interest.
 - Identify the entity's assets and its governance.
 - In case of dissolution, assignment of residual assets to another TSE.

Ongoing regulatory requirements

6. What are the main regulatory authorities for charitable organisations? What are their powers of investigation/audit/sanctions?

Regulatory authorities and powers

Powers and duties of the now abolished Agency for the Third Sector are exercised by the Ministry of Welfare.

Under the Civil Code, the competent public authority (local representative of the national government (*prefettura*) or the regional government) manages recognition of associations and foundations (see [Question 5](#)) and monitors that, among others, decisions taken by:

- The association's assembly comply with public order or morality.
- Directors of foundations do not diverge from the foundation's purpose and comply with the law.
- As provided by the Code of the Third Sector, the Ministry of Labour and Social Policy has recently set up the National Council of the TSE to ensure supervisory and monitoring functions of TSE entities.

See box, *The regulatory authorities*.

7. Which bodies or persons manage charitable organisations and what general requirements must they meet?

Associations

The organisational structure of an association can vary, depending on the scope, size and kind of activity, but there must be at least the following two corporate bodies:

- **Members' meeting.** All members are entitled to attend it and vote. The members' meeting is the deliberative body and fundamental to the life of a recognised association. Under the Civil Code, resolutions are adopted by a majority of the members (each member has one vote, irrespective of membership fees paid). Qualified majorities are required to adopt resolutions on specific subjects (for example, amendment of the incorporation deed or dissolution of the association).
- **Directors.** The directors are the executive body of the association (managing the association is exclusively the task of the directors). Only individuals can be appointed as directors. Non-member individuals can also be appointed as directors. The directors are responsible to the association for their actions.

The incorporation deed can set up additional bodies, for example a board of auditors, an executive committee or a board of arbitrators.

The corporate structure of unrecognised associations is not expressly regulated by the Civil Code, but the provisions for recognised associations usually apply. Directors and, in general, people acting on behalf of the association, are responsible for liabilities incurred by the association.

Foundations

The administrative body of a foundation can be a sole director or a group of directors, and it can be appointed in various ways. The appointment of the administrative body can be decided directly by the founder in the foundation deed, or delegated to third parties. The directors can be appointed for life or a fixed period. Directors are responsible for managing the foundation's assets and pursuing its purposes.

Third Sector Entity (TSE)

A TSE entity must regulate its governance in accordance with the legal form required by the Code of the Third Sector.

8. What are the accounting/financial reporting requirements?

The Civil Code requires recognised associations to prepare approved annual financial statements. Under the ONLUS Decree, an ONLUS must draw up annual financial statements.

In 2009 the ONLUS Agency issued specific guidelines for annual reporting by non-profit organisations, under which non-profit organisations must provide the following:

- A balance sheet with assets, liabilities and equity.
- A statement on income and expenses for the period, divided by function (*Rendiconto di gestione*).
- Explanatory notes with clarification of specific items.
- Mission report, describing objectives and projects necessary for the pursuit of institutional objectives, and the degree of achievement.

In 2011, the Italian Accounting Board (OIC), together with the now abolished Agency for the Third Sector, issued

Accounting Standard No. 1 for non-profit entities. This outlines a set of general rules and evaluation criteria for the preparation of non-profit entity financial statements.

Tax accounting obligations are imposed by the Income Tax Law regulations and VAT Decree for non-commercial entities (see [Question 9](#)) that also carry on business activities. Such entities must keep, among others:

- Journal book.
- Inventory book.
- VAT registers.

Non-profit organisations that carry out the public collection of funds must also draw up within four months of the end of the financial year a separate report, which clearly shows, possibly through an explanatory report, revenue and expenditure relating to each celebration, anniversary or campaign performed.

In general, in accordance with the legal form of the TSE, the entity follows the rules established by the Civil Code.

Tax

9. How are charities taxed, and what (if any) principal exemptions and/or reliefs from taxation apply to them?

Income tax

A charitable entity is subject, in principle, to corporate income tax (IRES) at a rate of 27.5% on its income. Determination of the tax base depends on the entity and whether it is commercial or non-commercial.

Commercial entities are subject to the same regime for corporations. All income from activities performed by the entity is business income, regardless of the source.

Non-commercial entities follow the same principles applicable to individuals. Their income falls into the following categories (each with specific rules to calculate the tax base):

- Property income (for example, rent from immovable properties).
- Capital income (for example, interest and dividends).
- Business income.
- Miscellaneous income (for example, capital gains on the disposal of shares or real estate).

Non-commercial entities can also carry out commercial activity that receives business income (usually connected to its institutional purposes, and sometimes necessary to obtain financial resources to carry out its statutory aim). Non-commercial entities must keep separate accounts for its commercial activities.

Costs related to goods and services used for non-commercial activities can be tax deductible (for an amount based on the ratio between the amount of revenue from the commercial activity and the total amount of revenue it receives).

Proceeds from core activities carried out in accordance with the official purpose of the entity (for example, membership

fees, donations received, fundraising from occasional public collections and public contributions) are not subject to corporate income tax (*Article 148, Tax Code*).

In general, financial income (for example, interest and capital gains) is subject to final withholding tax. Starting from fiscal year 2015, dividends received by non-commercial entities are exempt, for a portion equal to 22.26% of the amount received.

Under Article 6 of Presidential Decree No. 601/1973, entities involved in specific activities (for example, social assistance, charity, instruction, and cultural) benefit from a reduction by half of corporate income tax due.

Under Article 73 of the Tax Code, despite the legal form of incorporation:

- A commercial entity is an entity whose sole or main purpose is to perform commercial activity (the activities in Article 2195 of the Civil Code, that is, industrial production of goods and services, intermediary activities in the movement of goods, transport activity, banking or insurance and activities auxiliary to them).
- A non-commercial entity is an entity, either public or private, whose sole or main purpose is not a commercial activity.

To classify an entity as commercial or non-commercial, reference should be made to the sole or main purpose in the incorporation deed or bye-laws of the entity (if a public deed or private deed notarised or registered) or, in the absence of such documents, to the activities essential for realising the main scope of the entity and which are effectively performed.

An entity can lose the status of non-commercial entity if it effectively carries out mainly commercial activity for an entire tax period, regardless of any incorporation deed/bye-laws provisions.

Both commercial and non-profit entities can be subject to IRAP (regional tax), at a rate generally equal to 3.9% (but only on realised business income).

ONLUS

A special tax system is provided for an ONLUS. An ONLUS can only carry out institutional activities, except for those directly related to statutory purposes (collateral activities) (see [Question 5](#)).

Article 150 of the Tax Code provides that revenue from collateral activities by an ONLUS is not taxed. An ONLUS is only taxed on property income, capital income and miscellaneous income (see [above](#), [Income tax](#)).

To benefit from the above exemption:

- The institutional activities of the ONLUS must prevail over its collateral activities.
- Income from collateral activities must be less than two-thirds of the total amount of the costs incurred in the relevant period.

An ONLUS is subject in principle to regional tax, though some regions have exemptions.

Tax on capital gains

Capital gains from the disposal of assets are subject, in principle, to corporate income tax (see [above](#), [Income tax](#)).

Tax on property used by the organisation

Income from immovable property is generally subject to income tax, on its cadastral value, by applying specific provisions under the cadastral law.

Immovable properties are also in principle subject to municipal tax (*Imposta Municipale Propria (IMU)*). However, immovable properties owned by non-profit entities which are used exclusively for the entity's institutional activities are exempt from IMU.

Value added tax (VAT)

In principle, institutional activities by non-commercial entities (including charities and non-profit organisations) are outside the scope of VAT, provided that the entities do not carry on business activity as their main or exclusive object. However, any business activity exercised secondarily by non-commercial entities is subject to VAT.

There is a specific anti-avoidance rule for the internal activity of a non-commercial entity towards its members/associates. Sales of goods or provision of services to members/associates are deemed to be commercial (and therefore subject to VAT) if the activities are paid for through specific proceeds or an incremental contribution (in addition to the ordinary membership fee).

Input VAT incurred by non-commercial entities can be deducted if a business activity is performed, and the input VAT relates to purchases directly attributable to the business activity. The activities must also be separately accounted for from the institutional activity. If a particular good or service is used for both commercial and institutional activity, input VAT is deductible for the part attributable to the commercial activity.

The VAT Decree provides for special relief for an ONLUS.

Also, advertising services rendered to all non-profit organisations is not subject to VAT.

Other

In principle, transfers of assets due to death or donation (or other transfers for no consideration) are subject to inheritance or gift tax, paid by the beneficiary or recipient.

Transfers by death or donation in favour of recognised foundations or associations, with an exclusive purpose of assistance, study, scientific research, education or other public benefit purpose, and to ONLUS entities, are exempt from inheritance and gift tax (*Article 3, Presidential Decree No. 346 1990 on inheritance and gift tax*).

Exemption from indirect taxes (registration tax, mortgage and cadastral tax, donations tax and so on) has been recently introduced, with reference to binding assets to the assistance of disabled persons, for example through trusts, associations or designated assets (*patrimoni destinati*).

Third Sector Entity (TSE)

The Code of the Third Sector, once authorised by the EU Commission, will introduce a specific tax regime applicable to third sector entities (TSE). In principle, tax benefits reserved to ONLUS will be extended to TSE.

The Code of the Third Sector introduces a more efficient and simplified standard tax regulation for those entities which decide to apply to the National Register.

The main provisions concern:

- Considerable deductions related to donations in favour of a non-commercial TSE.
- Exemptions and/or reductions regarding indirect taxes.
- Funding incentives.

- Several tax benefits for carrying out social activities.

10. What, if any, are the taxation benefits for donors to charities?

Donations by private individuals

Individuals (and non-profit bodies) can deduct from their gross tax amount payable an amount equal to up to 26% of cash donations they make to an ONLUS (up to EUR30,000), provided that the cash donation is made available to the ONLUS through a bank transfer or other traceable payment system (for example, postal payment) (*Article 15, Tax Code*).

Donations by business income taxpayers

Under Article 100 of the Tax Code, entities and individuals that generate business income (as companies, commercial and non-commercial entities, and individuals performing business activity) can deduct from their total business income donations in money or in kind made to the following:

- ONLUS (up to 2% of total net income, up to a maximum of EUR30,000). The same benefit is granted for donations to non-governmental organisations (NGOs) that co-operate with developing countries, since they are in the same category as an ONLUS. The list of NGOs recognised by the Foreign Ministry is available on the Foreign Ministry's website, at www.cooperazioneallosviluppo.esteri.it.
- Social development associations registered in the appropriate national register (up to 2% of total net income).
- Recognised foundations and associations whose statute includes the protection, promotion and development of properties of artistic, historic or landscape value.

Alternatively, donations to an ONLUS by individuals and any kind of entity can be deducted from taxable income, up to the higher of 10% of total net income and EUR70,000.

Public contribution

A specific public contribution can be granted to non-profit entities and charities that meet specific requirements (in principle, entities that qualify as ONLUS). Individuals, in their annual income tax return, can choose a beneficiary to which the state will assign an amount equal to five per thousand of their income tax payable (IRPEF).

Third Sector Entity (TSE)

As anticipated, the Third Sector Reform Law reorganises and harmonises tax reliefs applicable to charitable organisations.

For both donations and public contributions, the entry into force of the new Code of the Third Sector will bring major benefits for TSEs.

Disadvantages

11. What are the main disadvantages of charitable status?

Since charitable organisations mainly perform non-commercial activities, input VAT cannot generally be deducted (see [Question 9](#)).

Overseas charities

12. Is it possible to operate an overseas charity in your jurisdiction? What are the registration formalities? How (if at all) are overseas charities treated differently in your jurisdiction from charities set up under domestic law?

If associations and foundations established abroad have their seat of administration or main purpose in Italy, they must register in the Register of legal entities (*Article 25, Law No. 218 of 31 May 1995*).

Non-resident or international non-profit entities are governed by Articles 153 and 154 of the Tax Code, according to which only incomes earned in Italy are subject to Italian Income Tax, except those exempt from tax and those subject to withholding tax (*Article 153, Tax Code*).

Article 154 of the Tax Code provides that the income of non-resident non-profit entities is determined in the same way as non-resident individuals (*Article 23, Tax Code*).

The Tax Authority has clarified that non-resident non-profit organisations can qualify for ONLUS status, and be subject to the same tax treatment as resident organisations (*Circular No. 24/E, 2006*). In practice, there is nothing to prevent the recognition of ONLUS status in favour of non-resident entities.

13. Is it possible to register a domestic charity abroad, and has your jurisdiction entered into any international agreements or treaties in this area?

Non-profit organisations incorporated under Italian law are not prevented by Italian law from registering and operating abroad. Further, the Italian Ministry of Foreign Affairs and International Cooperation oversees and supports activities of non-profit Italian organisations in the field of social solidarity and development co-operation (for example, granting a qualification to non-governmental organisations (NGOs) to implement development co-operation projects).

Reform

14. Are there any proposals for reform in the area of charity law?

As mentioned in [Questions 1, 3](#) and [10](#), the Third Sector Reform Law's aim has been to streamline the complex tax system created in the 1990's. Currently the reform process has not been yet completed. The Italian government is still working to issue the required implementing decrees. In particular, implementation is still awaiting the European Commission's authorisation and the National Register has not yet been established.

Regulatory authorities

Italian Tax Authority

W www.agenziaentrate.gov.it

Description. Official website of the Italian Tax Authority, available also in English.

Italian prefectures

W www.prefettura.it

Description. The official website of the Italian prefectures, in Italian.

Italian Regional governments

W www.regione.lombardia.it

Description. Each Italian region has its own website. For example, the website of Milan's region (*Regione Lombardia*).

Ministry of Labour and Social Policy

W <http://www.lavoro.gov.it>

Description. The official website of the Ministry of Labour and Social Policy, which contains a section on TSE.

Online resources

Official Gazette

W www.gazzettaufficiale.it

Description. Official website containing Italian legislation, in Italian.

Ministry of Finance

W <http://def.finanze.it>

Description. The official website of the Ministry of Finance, containing Italian legislation and circulars issued by the Tax Authority, in Italian.

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Areas of practice. All tax issues related to individuals (including trusts and high net worth individuals) and corporate tax (particular focus on international taxation, mergers and acquisitions and tax litigation).