



ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT



REPORT ON ABUSE OF CHARITIES FOR MONEY-LAUNDERING AND TAX EVASION



CENTRE FOR TAX POLICY AND ADMINISTRATION

EXECUTIVE SUMMARY

Tax evasion and tax fraud through the abuse of charities is a serious and increasing risk in many countries although its impact is variable. Some countries estimate that the abuse of charities costs their treasury many hundreds of millions of dollars and is becoming more prevalent.

This report was prepared by the Tax Crimes and Money Laundering Sub-Group of Working Party No. 8. It contains information on tax crime and money laundering through the abuse of charities. The information contained in the report was provided by 19 countries in response to a questionnaire issued in May 2008.

The report summarizes the status attached to charities in the countries surveyed and compiles the common methods of the abuse of charities, the sectors at risk and the few attempts so far to quantify those risks. It sets out the detection strategies that countries have adopted. It also provides a listing of red flag indicators that countries can use in training front-end staff that process or assess tax returns as well as tax auditors and tax investigators in pursuing their verification and enforcement duties. The report gives examples of information resources and describes the detection and investigation approaches adopted by a number of the countries.

The abuse of charities is becoming more organised and more sophisticated. Most countries surveyed that have identified problems with the abuse of charities find it difficult to detect all cases of abuse. The report gives illustrative case studies to aid comprehension and to raise the awareness of tax authorities about the potential abuse of charities in their countries. The report identifies a set of good practices that tax authorities vulnerable to the risk of this abuse might consider.

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REPORT ON THE ABUSE OF CHARITIES FOR MONEY-LAUNDERING AND TAX EVASION

I. Background

1. Many countries recognize the important and significant role the voluntary sector plays in building a strong, caring and well functioning society as well as in contributing to employment, welfare and economic growth. As a consequence they provide tax incentives or tax relief to those organizations (and their donors) that typically constitute the voluntary sector: unincorporated community organizations, registered charities (charities) and non-profit corporations.
2. Many tax administrations have the statutory responsibility for ensuring compliance with the eligibility requirements for the tax relief provided to taxpayers for donations, or tax benefits that accrue to certain organizations within the voluntary sector. Typically this would include non-profit corporations, registered charities, and the donors to registered charities. The tax administration's role is to ensure that the tax relief and tax benefits are appropriately claimed, that entitlements are not abused and that obligations associated with these tax benefits or tax relief, such as registration, reporting of activities, the provision of statements of assets and liabilities, or other administrative requirements, are complied with.
3. The abuse of charities occurs when the sanctioned government status of a charitable organization is abused either by the charitable organization, by taxpayers and donors, or third parties, such as fraudsters who pose as charitable organizations or tax return preparers who falsify tax returns to defraud the government. The abuse has serious and increasing risks to governments and the wider community. While the studies are limited, some countries like **Canada** report that the abuse of charities is costing their treasury millions of dollars in terms of misappropriated tax relief such as the overpayment of refund claims or fraudulent claims. In other countries, similar abuses are reported with serious consequences on tax revenues and the integrity of the charitable sector.
4. This report will focus on the abuse by charities themselves or by others, of the tax advantages that are provided to charities and to taxpayers who make charitable donations. Although in some countries, Non-Profit Organizations are also included in Charitable Organizations, the report will not explore the abuse of non-profit organizations (NPO) although in some cases, the abuses that will be highlighted in this report may be applicable to NPOs.
5. Taking into account the significant risks outlined above, Working Party No. 8 Sub-Group on Tax Crimes and Money Laundering (TCML) agreed to examine the tax evasion and money laundering vulnerabilities associated with the abuse of charities. The delegate for **Canada** took the lead on surveying practice, developing the analysis and collating case studies for the report.
6. This report contains information on the tax evasion and money laundering vulnerabilities associated with the abuse of charities. The information was provided by 19 countries¹ in response to a questionnaire

¹ Argentina, Austria, Belgium, Canada, Chile, the Czech Republic, Denmark, France, Germany, Ireland, Italy, the Netherlands, Norway, Portugal, Spain, Sweden, Turkey, United Kingdom and the United States.

that was sent on May 30, 2008. The report includes two annexes that contain all country responses to the survey and case studies. The report not only provides a useful overview of the key tax evasion and money laundering issues and risks associated with the abuse of charities, but also provides practical guidance to tax authorities that are seeking to implement strategies to effectively address these risks. The report is also intended to assist tax authorities in refining their existing strategies. The implementation of measures intended to address the risk of abuse of charities should take care not to undermine the activity and reputation of legitimate charities which are of vital social, economic and political importance in many countries.

7. The report specifically addresses:

- a. Definitions and examples of the abuse of charities;
- b. Quantifying the risks associated with the abuse of charities;
- c. How countries detect suspected cases of tax evasion and money laundering involving the abuse of charities;
- d. “Red Flag Indicators” used to detect the abuse of charities;
- e. How countries investigate cases of suspected tax evasion and money laundering involving the abuse of charities;
- f. Effective measures undertaken by tax administrations and other government agencies to increase compliance and deter non-compliance in these areas; and
- g. Results of activities designed to detect and address non-compliance, and to promote compliance.

II. Country descriptions of status, regulation and tax benefits attached to charities:

8. There is considerable diversity within the OECD countries in the nature of the development of the charitable sector and the way in which charities and donors are treated for tax purposes. There has also been significant development of the charitable sector in recent years and this is expected to continue. It is expected that the material presented in this report will also be of use to countries which have not yet encountered problems with tax crime and money laundering through the abuse of charities. The countries’ descriptions of the status of charities, their regulation and the tax benefits open to them and their donors which are fully detailed in ANNEX 1 attached will help put this into context. However, a short description of the each country’s regime is provided below.

9. In **Argentina**, a charity is a legal entity that develops a charitable activity whether it is a social welfare activity or an activity aimed at common good or the public interest and known as such by the legislation that specifically regulates them. A charity is exempt from paying tax on its revenue obtained during the performance of its charitable activity. To receive such benefits, charities must be recorded in a register before the Federal Tax Administration. The donation can be deducted up to 5% of the donor’s net income.

10. In **Austria**, charities are taxable subjects in general, however, they are exempt from paying income tax if the given purpose of the charity is related to public welfare matters. Only donations for charities with a pursuit towards science and research are accepted and are tax exempted.

11. In **Belgium**, the vast majority of corporations authorized to issue tax receipts for donations are subject to a pre-registration procedure and must meet a series of conditions, including not seeking profit, either for

themselves or their members as such. Some corporations like the Red Cross, Child Focus, etc. are permanently registered because they are cited by name in the *Code belge des impôts sur les revenus*. Registered corporations subject to corporate income tax are exempt from paying tax on their overall annual net income. Donations are deductible if they total at least € 30 per beneficiary organization. The beneficiary organization must send the Belgian Headquarters a copy of the receipts issued to its donors as well as a summary list of those receipts. For an "individual" donor, the overall deductible amount cannot exceed 10% of the overall net income or € 331 200 (applicable for 2008 income). For a "corporate" donor, limits are 5% and € 500 000, respectively.

12. In **Canada**, a registered charity means a charitable organization, public foundation, or private foundation that was established and is resident in Canada. The registered charity must be operated for charitable purposes and must devote its resources to charitable activities. A registered charity must also meet certain obligations such as meeting and continuing to meet the legal definition of a Charity; restricting political and commercial activities, filing an Annual Registered Charity Information Return, maintaining adequate books and records in Canada. The registered charity is exempt from paying tax on its revenue and it can issue donation receipts for gifts that it receives. Donors are rewarded with a tax deduction or credit for gifts made to a registered charity. They are also able to claim tax deductions or credits up to 75% of their annual net income. In addition, gifts in kind (other than cash) can be made to registered charities.

13. In **Chile**, there are two types of NPO. The first type is composed of Foundations and Corporations which are entitled by law to act as charitable organizations. The second type is composed of a group of entities which are of private (professional associations, amateur sport organizations) or public nature (religious organizations and State related entities). For Income Tax purposes, certain types of donations, under specific conditions can be subject to two incentives, a tax credit or an expense allowance which are available, either jointly or separately, for charitable contributions. In order to obtain these tax benefits, the Tax Authority must be informed of donations received, including the amount, the date, and the donor's identification.

14. In the **Czech Republic**, some NPOs operate as a charity and these organizations or their donors can benefit from a special tax regime. A Foundation can operate only as a charity for public-benefit purpose, not for private benefit of its founders. The foundation is exempt from paying tax on its income. Donors are entitled to tax reduction of up to 10% of their annual net income. The minimum donation, for which the tax deduction can be applied is 1 % of net income or 2 000 CZK (€ 81)².

15. In **Denmark**, charities must be specially registered in the Danish tax system in order for their donors to obtain their tax deductions. There are two kinds of charities. The first type is called "Collecting". This is a person/firm that can claim a tax deduction from DKK 500 (€ 167) up to DKK 14 000 (€ 1 800) annually. The taxpayer has to get a receipt from the registered charity. The charities have to declare the amount and the donor's identification to the tax authorities. The second is called "Welfare payments to charities and religious societies". The taxpayer can claim a tax deduction from DKK 15 000 (€ 2 000) up to 15% of his annual income.

16. In **France**, non-profit organizations are associations subject to the law of 1901, religious congregations, foundations recognized as serving the public good, business foundations and associations governed by current local law in Alsace Moselle. Non-profit organizations cannot be registered in the business and corporation registry unless they issue bonds or usually conduct manual exchange transactions.

² For the purpose of this report, the equivalent amount in Euro has been added (currency rate as of August 15, 2008).

As long as they adhere to the non-profit framework, non-profit organizations are exempt from business taxes including the Value Added Tax (VAT), corporate taxes and professional taxes. Conducting profitable activities will likely bring into question the benefit of such exemptions. Non-profit organizations are required to pay corporate taxes on capital income (income from land, farming or real estate) at a rate of 24%. This rate is 10% on certain real estate income. Individual donors are entitled to a tax deduction from their income tax equal to 66% of the donation. Businesses receive a tax deduction from corporate income tax equal to 60% of payments taken from the 5% of sales limit. Donations to fund work on a private historical monument have been tax deductible since January 1, 2007.

17. In **Germany**, incorporated, unincorporated associations, foundations and incorporated companies may have a public-benefit purpose. It is relatively seldom for unincorporated associations and incorporated companies to function as “donation-collecting associations”. Very stringent regulations apply to the establishment and operation of foundations. The law provides considerable incentive to encourage the financing of public-benefit, religious and charitable associations by allowing the deduction of donations. The law pertaining to associations has very many formal requirements designed to ensure their correct operation and to prevent abuse. The tax authorities generally review whether the requirements for public-benefit status are met every three years on the basis of a tax return to be submitted by the association. The review always covers the past three years.

18. **Ireland** has for many years operated a Tax Exemption Scheme for Charities and has also implemented a tax relief scheme for donations to charities. A charitable trust must be for the relief of poverty, the advancement of religion, the advancement of education or other purposes beneficial to the community. The tax code provides exemption for charities from Income Tax, Corporation Tax, Capital Gains Tax, Deposit Interest Retention Tax, Capital Acquisition Tax, Stamp Duty and Dividend Withholding Tax. Tax relief applies to donations which are €250 or greater in one year, are in the form of money or shares, or a combination of money and shares, are not repayable, do not confer a benefit on the donor or any person connected with the donor, and are not conditional on, or associated with, any arrangement involving the acquisition of property by the charity or approved body.

19. In **Italy**, there is no unitary concept of “charities”. Non commercial entities also include non profit organizations which have the exclusive purpose of social solidarity (ONLUS³) in sectors strictly provided for by law. Non commercial entities are liable to corporate income tax but may be entitled to tax benefits. In order to be tax exempt on the income derived from the social activities that they carry out, ONLUS must be enrolled in a registry held by the Regional Directorate of the Revenue Agency which is territorially competent. A tax relief system is in place for donations made by companies or individuals in favour of non commercial entities and ONLUS. It is usually possible to deduct from reported income up to 2% of the amount of the donation. The law also provides for restrictions to the maximum deductible amount depending on the nature of the donor.

20. The **Netherlands** operate a system for granting tax relief/deductions in respect of charitable donations. Taxpayers can obtain a deduction for personal or corporate donations as long as the donations are made to certified charities. Additionally, donations from taxpayers to certified charities are exempted from inheritance tax and gift tax. Finally, donations from certified charities to charitable purposes are also exempted from inheritance tax and gift tax. The threshold in the Income Tax Act equals 1% of the taxable income (or at least € 60) but it is limited up to 10% of the taxable income. The amount exceeding the threshold is tax deductible for the donor. The threshold in the Corporate Income Tax equals € 227 but it is limited up to 10% of the taxable profit. The amount exceeding the threshold is tax deductible for the corporate donor.

³ Organizzazione Non Lucrativa di Utilità Sociale

21. In **Norway**, non-profit institutions including charities are generally exempted from income tax and wealth tax, however, charities are liable to pay income tax on economic activities if their income exceeds NOK 140 000 (€ 17 500). Charities are exempted from the employers' general obligation to pay contributions to the National Insurance Scheme of wages and other remuneration as long as the total annual wages does not exceed NOK 450 000 (€ 56 400). The exemption only applies for payments up to NOK 45 000 (€ 5 640) per employee. Charities, with taxable supplies that exceed NOK 140 000 (€ 17 500) are obliged to obtain a VAT registration. Taxpayers can claim a tax deduction for donations to non-profit organizations that are doing social or health promoting work, infantile or youth work, religious or other denominational work, activities to protect human rights or foreign aid, disaster aid or activities to prevent disasters and accidents, or culture conservation, environment and nature conservation or animal protection. The donation to each charity must exceed NOK 500 (€ 62) annually, and the maximum annual deductible donation per taxpayer is NOK 12 000 (€ 1 500). Information on the non-profit organizations, to which donations are deductible, is presented on the tax authorities web-pages. The organization is obligated to keep accounts of the donations and must report information on each donating taxpayer to the tax authorities.

22. In **Portugal**, charitable organizations may obtain some exemptions, in terms of corporate tax and VAT, according to the objectives pursued as long as certain legal conditions are met. Concerning the donors, every donation granted to administrative public utility legal persons or public utility entities pursuing charity purposes, providing assistance, beneficence and social solidarity as well as to social solidarity cooperative societies, may be considered as cost or net loss, and may be calculated at 120%, 130% and 140% of the total amount of the donation, according to the entity benefiting from the donation to the maximum threshold of 8/1000 of the entity's turnover or of the services provided in accordance with the legislation.

23. In **Spain** there is a special regime for non-profit entities, in which, charities are included. This special fiscal regime basically consists of an exemption in the corporate income tax of the entity, for contributions, donations, subsidies, incomes obtained as a result of the activity related with its specific goal, dividends of shares, and rents of real estate. An individual can claim 25 % of the donation on his/her income tax and a corporation can claim 35% of the donation (with a limit on the amount of the donations of 10% of the taxable profits).

24. In **Sweden** charities are tax exempt; however, there are no tax benefits available to the donors.

25. In **Turkey** charitable organisations, public and private foundations that are resident and established in Turkey have generally no tax liability. Charities are exempt from paying income tax (corporate tax) on their revenue and can issue donation receipts for gifts that they receive. The donors are entitled to a deduction of up to 5% of their annual net income.

26. In the **UK** a charity is a trust or body of persons established for charitable purposes only. Charitable purposes are defined in general law. The regulation of charities and the oversight of their tax affairs are dealt with by different bodies who work closely together when necessary. The charity regulators maintain registers of certain charities and monitor the activities, management and administration of registered bodies. The annual accounts of registered charities are public documents and are posted on the regulators' websites. Her Majesty's Revenue and Customs (HMRC) has responsibility for the tax affairs of all charities (whether registered or not) and donors. Charities are exempt from tax on income from certain sources to the extent that they spend it on their charitable purposes. Tax relief for individual and corporate donors is available for cash gifts and gifts of qualifying investments. There is no annual limit on donor relief for individuals but corporate donors are limited to relief up to 100% of chargeable profit. The tax affairs of charities and donors are confidential.

27. In the US, the charitable sector consists of nearly one million public charities and private foundations. Overall, these tax-exempt organizations form an important part of the US economy, employing about one of every four workers in the US, and represent a significant portion of the financial resources under control of the NPO sector and a substantial share of the sector's international activities. Charities are not taxed on income from their charitable activities. Donors to eligible charities generally will be able to reduce their own federal income taxes (and usually State income taxes as well) by a percentage of the amount of their donation (as much as 40%). Churches and equivalent institutions such as synagogues, temples, and mosques have a preferred status among other organizations and they do not need to file applications for exempt status, as they are automatically recognized as being exempt.⁴

What is the abuse of charities?

28. For the purposes of this report, the abuse of charities occurs when the sanctioned government status of a charitable organization and its entitlements towards tax relief or tax benefits are wilfully abused either by the charitable organization as a perpetrator of tax fraud, by taxpayers and donors, or third parties, such as fraudsters who pose as charitable organizations or tax return preparers who falsify tax returns to defraud governments using relief provisions for taxpayers who make charitable donations.

III. Findings and Observations

What is the current situation concerning the abuse of charities in the surveyed countries?

29. The current situation concerning the abuse of charities is to some extent different in each country surveyed. The following table shows the countries' description of their current situation concerning the *abuse charities*:

Current situation reported in the surveyed countries			
No abuse	Fewer abuses	Abuses reported	Types of abuse concerning charities/ additional information
		Argentina	They believe that there have been cases of tax evasion.
Austria			Only donations for charities which pursue science and research are accepted.
		Belgium	They had cases of tax evasion involving abuse of charities.
		Canada	They have identified instances of tax evasion, tax crimes and money laundering involving abuse of charities

⁴ FATF Third Mutual Evaluation Report on Anti-Money Laundering and Combating the Financing of Terrorism, June 23, 2006.

Current situation reported in the surveyed countries			
No abuse	No abuse	No abuse	Types of abuse concerning charities/ additional information
Chile			Charities have to report to the tax authorities the donations received and the identity of the donors.
	Czech Republic		They have identified on an annual basis, approximately 3 to 5 suspicious transactions involving the non-profit sector. No specific statistics are available regarding tax evasion through charities nevertheless some cases of tax evasion have become famous through the Supreme Administrative Court decision.
Denmark			Charities have to report to the tax authorities the donations received and the identity of the donors.
France			No cases of money laundering, tax evasion or tax crimes have been detected among non-profit organizations under monitoring operations by the National tax investigations directorate.
Germany			They have very stringent regulations apply to the establishment and operation of foundations.
	Ireland		Tax evasion/avoidance involving charities have occurred periodically in an ad hoc way. Occasionally, an audit/review would discover an interpretation of the rules of the scheme that differed somewhat to the Revenue's view and the terms and perhaps the conditions of the tax exemption would not have been strictly adhered to. The authorities consider that this activity would not constitute a crime or money laundering offence.
		Italy	They have identified some instances of tax evasion involving non commercial entities and ONLUS.
	Netherlands		They have not discovered a lot of abuse of charities.
		Norway	They have no indications on tax fraud related to the deduction of contributions to charities, however, some cases revealed crimes related to charities.

Current situation reported in the surveyed countries			
No abuse	No abuse	No abuse	Types of abuse concerning charities/ additional information
	Portugal		They have no situations of tax evasion or money laundering in connection with non-profit entities, however, foundations may, on occasion, be used for assets acquisition or for exempted commercial operations and contravene the underlying conditions, for example, the obligation to allocate part of the company's revenue to social aims.
		Spain	They have recently detected that certain people linked with charities have accumulated great amounts of money that have been sent to tax haven territories.
	Sweden		They have not identified specific suspicions of tax offences or money laundering in the non-profit organizations taking care of charity donations. They have encountered cases of fraud where donations have been stolen from the donors, however, there were limited tax implications.
Turkey			
		UK	They have identified instances of tax evasion and tax crimes involving charities. They do not currently have any firm evidence of money laundering although it is suspected.
		US	They have identified instances of tax evasion, tax crimes and money laundering involving abuse of charities.

Common methods and schemes used to commit tax evasion and money laundering involving the abuse of charities.

30. There is evidence to suggest that the abuse of charities for tax evasion and money-laundering purposes is organised in many cases, and is not only individualistic, particularly when it involves unscrupulous tax return preparers. Once the tax crime is perpetrated, money-laundering techniques are used to hide the proceeds of the tax crime. There is also evidence that electronic tax filing methods, used increasingly by tax administrations to speed up the processing of tax returns and better serve taxpayers, provide significant challenges for tax authorities to quickly detect and deter the abuses of charities. The level of sophistication also increases the difficulty of detection of this type of crime and the apprehension of the offenders.

31. Tax authorities have detected several methods and schemes involving the abuse of charities to facilitate tax evasion, crime and money laundering. The most commonly detected methods and schemes are listed below:

- a. An organization poses as a registered charitable organization to perpetrate a tax fraud;
- b. A registered charity wilfully participates in a tax evasion scheme for the personal benefit of its organisers or directors;
- c. A registered charity is involved wilfully in a tax evasion scheme to benefit the organization and the donors, without the assistance of an intermediary;
- d. A registered charity is involved wilfully in a tax evasion scheme to benefit the organization and donors with the assistance of an intermediary;
- e. A charity is abused unknowingly by a taxpayer or a third party, such as unscrupulous tax return preparer who prepared and presented false charitable receipts;
- f. Tax sheltered donations as part of a tax evasion scheme;
- g. Salaried employees concealed as volunteer workers;
- h. An organization registered as exempted from the VAT that is performing taxed activities;
- i. The issuance of receipts for payments that are not true donations;
- j. The issuance of receipts to individuals working for the beneficiary organization;
- k. Criminals use names of legitimate organizations to collect money;
- l. Terrorism financing scheme using charities to raise or transfer funds to support terrorist organizations;
- m. Misuse of charity funds by charities; and
- n. Manipulation of the values of donated assets.

32. Some countries have identified the following or similar scenarios which briefly describe the several methods and schemes involving the abuse of charities. The table below provides the details:

Country	Scenarios
<i>Canada, US</i>	Scenario 1: Phony company, posing as a registered charity, solicits either by phone, by email or door-to-door charitable contributions by individuals or corporations. Donor tenders a receipt that is later refused by tax authorities as a claim against taxable income because the charity is non-existent/unregistered
<i>Canada, Czech Republic, Spain, US</i>	Scenario 2: Individual(s) set(s) up a charity; issue(s) receipts; but do(es) no charity work; use(s) funds for personal benefit.
<i>Canada, US</i>	Scenario 3: All controlled by the charity – the directing minds of the actual registered charities prepare tax returns and sell charity receipts for a commission to their clients (e.g., 10% of face value).

Country	Scenarios
<i>Canada, US</i>	<p>Scenario 4: (<u>Case study 1</u>): Registered charities that sell these charity receipts to other tax return preparers for a commission. The Canadian tax authority has noticed that charities and tax return preparers who previously have been identified as being involved in false receipting continue to issue the false receipts. The suspected fraudulent alteration and creation of receipts is more prevalent due to advancements in printing technology. Most suspicious activities seem to involve tax return preparers and the use of electronic services.</p> <p>(<u>Case study 2</u>): Tax return preparers who engage in issuing receipts for cash plus something of nebulous or fictional value i.e. used clothing, medicine, educational supplies, widgets, etc. e.g., \$1 000 cash gets you \$10 000 in charity donation receipts (May or may not have alliance with registered charity). Also, same scheme as Scenario 4, but does not bother with actual gift - falsifies cash donation and gift. Goods never shipped.</p>
<i>Canada, US</i>	<p>Scenario 5: (<u>Case study 3</u>): Taxpayers or tax return preparers that counterfeit the receipts of legitimate charities and “traffic” in counterfeit charity receipts. Tax preparer realizes more profit by cutting the charity out of the arrangement. This reduces the number of conspirators. The charity does not know that the tax preparer or the taxpayer is falsifying receipts under its name. <u>Case study 4</u>: Tax preparer steals the identity of a taxpayer and makes false tax returns and false charitable deductions, fraudulently obtaining tax refunds in lieu of the taxpayer. Now three victims: The government, the taxpayer and the reputation of the charity.</p>
<i>Canada</i>	<p>Scenario 6: Tax sheltered donations as part of a tax evasion scheme. (<u>Case study 5</u>): A charity collects cash donations/donated items in bulk and distributes the donations and the items in smaller quantities to food banks, and hostels for the homeless. In reality, the funds are not distributed and the donations receipts are issued for an amount exceeding the amount of the donation.</p>
<i>Argentina, Italy</i>	<p>Scenario 7: Salaried employees concealed as volunteer workers of the entity, eluding in this way, the employers’ benefits and contributions payments to the National Social Security System. Also, non commercial entities are set up in the form of associations which, in fact, conceal employment contracts.</p>
<i>Argentina, Italy</i>	<p>Scenario 8: Many entities are registered as exempted from the VAT before the Federal Administration of Public Revenues, when actually, they perform taxed activities. Non commercial entities and ONLUS are set up in order to benefit from tax benefits in spite of performing a real business activity.</p>
<i>Belgium, Canada</i>	<p>Scenario 9: There are cases where the donations are not true donations for the reason that the donors received a good or a service in return.</p>
<i>Belgium</i>	<p>Scenario 10: There are situations where receipts are issued to individuals performing a duty within the beneficiary organization. In fact, these donations</p>

Country	Scenarios
	originated from other individuals wishing to remain anonymous or from donations which were less than € 30 (since the donation is under the threshold amount, a receipt is not issued to the donor).
Norway	Scenario 11: Criminals have used names of known charities to collect money from the public. The money is either given in cash or paid through a bank draft.
Canada, Italy, US	Scenario 12: (<u>Case study 6</u>): In the US, it is evident from the designation, prosecution and investigation of charitable organizations either based in the U.S. or conducting operations within the U.S that terrorist abuse of US charities exists. The investigations demonstrate not only the complexity of potential terrorist financing schemes involving the use of charities. According to the US State department's 2007 Country Report on Terrorism, terrorist organizations are building closer ties with criminal organizations in order to fund operations. False charities ⁵ are a traditional method of individual contributions for terrorist groups.
UK	Scenario 13: Misuse of charity funds by charities including suspect loans or investments and monies transferring overseas (<u>Case study 7</u>) or back to the original donor.
UK	Scenario 14: Manipulation of the values of donated assets providing excessive relief to the donor and no benefit to the recipient charity.

33. An inventory or description of the types of the abuse of charities cases investigated by the tax authorities in the countries surveyed are found in ANNEX 1 and the case studies are found in ANNEX 2.

Which sectors and occupational groups are potentially involved in the abuse of charities?

34. Many sectors are involved in the abuse of charities. Some countries have reported that the following sectors have been identified so far in the abuse of charities. The following table provides the details:

Country	Sectors and occupational groups involved in the abuse of charities
Argentina, Belgium, Canada, Italy, UK, US	Tax return preparers, accountants, and other intermediaries
Argentina, Belgium, Canada, Czech Republic, Italy, Netherlands, Portugal, Spain, UK, US	Charities

⁵ Financial Transactions and Reports Analysis Centre of Canada, Money Laundering and Terrorist Activity Financing Watch, July 2008.

Country	Sectors and occupational groups involved in the abuse of charities
Canada, US	Donation tax shelters and donation tax shelter promoters
Canada	Professional fundraisers
Argentina	Commercial entities
Canada, Italy, US	Terrorist organizations ⁶ and terrorist supporters
Italy	Professionals including lawyers, doctors, etc.
Norway	Pure criminals

Quantifying the risks associated with the abuse of charities

35. Few countries have yet attempted to quantify the economic cost and/or the level of tax evasion and money laundering associated with the abuse of charities. Most countries do not have a mechanism to capture the overall economic cost associated with the abuse of charities. In the countries that have made such estimations, the amounts are significant.

Examples of economic cost and/or level of tax evasion and money laundering associated with the abuse of charities:

In **Canada**, just in terms of revenue losses, for the current cases under criminal investigations, such abuse represents an amount of \$200 million (€125 million) in tax revenue at risk.

Spain has detected €40 million in offshore accounts. In tax revenue, the loss is approximately €15 million.

UK cannot accurately quantify the total economic cost but the schemes relating to direct tax that they have found and challenged have been in the £tens of millions. In the case of indirect taxes the tax at stake is of the same order. There has been some negative publicity but the integrity of the charity sector has not yet been seriously damaged.

The **US** cannot quantify the economic cost; however, based upon their related investigations, there are consequences on tax revenues and on the overall integrity of the charitable sector.

How do countries detect suspected cases of tax evasion and money laundering involving the abuse of charities?

Detection strategies and techniques

36. Some countries use a combination of intelligence gathering, risk analysis, risk profiling and data matching to detect cases of tax fraud and/or money laundering in the abuse of charities. Several countries report that data matching and other information sharing activities between tax authorities and other government agencies are carried out to detect and investigate suspected cases of tax evasion and/or money laundering involving the abuse of charities.

⁶ APG Typologies Report 2008 prepared by the APG Typologies Working Group.

Detection strategies and techniques

Belgium: Generally speaking, these abuse cases are detected during an in-depth audit of an organization's bookkeeping, performed during a registration application or registration renewal application. If an organization has already been certified in the past, the competent tax department also verifies if it has followed the directives with respect to tax receipt preparation and issuance. Abuse cases may also be detected by the tax departments when verifying the donors' tax status. The tax authority may also be aware of abuse cases when, after opening a legal investigation, it receives authorization to consult legal records.

Canada: There is no matching system for charity donations; however, the Canada Revenue Agency (CRA) has identified several key characteristics which facilitate the detection of possible abuse of charities. The CRA's risk assessment systems use primarily information from internal sources.

Czech Republic: Cases of tax evasion involving charities are detected through the conventional means.

Italy: In order to detect charities tax abuses, the same tools are generally used as for the other economic agents. Regarding ONLUS, the Special Unit for Tax Revenue has in place risk criteria for tax purposes which are related to the recurrence of tax abuses or crimes or to the failure to submit a tax return.

Portugal: The control of income tax deductions/tax credit, due to donations made to NPO's, includes data matching. This data matching process is made using information from tax returns/declarations submitted by donors and by beneficiaries NPO's : 1- Those who make donations and obtain tax deduction/tax credit must identify the amounts as well as beneficiaries of donations 2- The beneficiaries of those donations (NPO's) must identify the donors as well as the amounts.

UK: HMRC Charities tax team issues and reviews charity tax returns and accounts. The repayment audit team identifies most of the abuse by charities by identifying patterns and unusual items. Abuse of the donor relief is discovered by local compliance officers who deal with the donor's tax return and has also been identified, in the case of large donations, by the repayment team in HMRC Charities. HMRC also has a tax avoidance scheme declaration process.

37. Most countries report that the strategies and techniques used by their tax authorities to detect tax evasion and money laundering involving the abuse of charities have been successful in terms of:

- Preventing revenue loss through proactive data mining;
- Enabling the prosecution of cases that otherwise may have never been detected; and
- Providing the quickest opportunity to review returns with suspicious characteristics before the refunds are issued and thereby likely irretrievable.

What "red flag indicators" are used to detect possible cases of tax evasion and/or money laundering involving the abuse of charities?

38. Several "red flag indicators" are used by tax authorities to detect possible cases of tax evasion and/or money laundering involving the abuse of charities. These indicators are outlined below in 3 categories:

Category 1:

- Taxpayers who report low to moderate income with an abrupt change in donation pattern
- Taxpayer has no history of donating and now is suddenly making charity donations in varying ranges
- There is a high ratio of donation amount to net income

- There are multiple charitable causes with no apparent connection
- Sudden other deductions also appear such as:
 - childcare expenses,
 - business losses,
 - employment expenses

Category 2:

- Many donors have same community/cultural backgrounds and relationships
- Some work together in similar lines of work or for the same large company
- In many cases, taxpayers pay for these donations in cash which makes it harder to trace
- When challenged by the Tax Administration:
 - The taxpayer does not provide a response to the queries
 - The taxpayer provides copies and not originals of charity donation receipts
 - The receipts provided are not pre-numbered
 - When queried about the method of payment, “cash” is the predominant answer.

Category 3:

- Taxpayers who made charitable donations less than \$500 (€ 318)
- Taxpayers who made \$ 3 000 (€ 1 912) or more in charitable donations during the subsequent tax year
- Tax advantage is equal or greater than \$1 000 (€ 637)

Information sources available to tax authorities to assist in the detection and investigation of cases involving tax evasion and money laundering involving the abuse of charities.

39. Most of the countries surveyed use multiple sources of information, available within and external to their tax authority, to detect and investigate possible cases of tax evasion and/or money laundering involving the abuse of charities. Effective information sharing between tax authorities, other domestic agencies and law enforcement authorities is also crucial to detecting and investigating such cases.

40. Examples of useful sources of information available within or obtained by tax authorities for such purposes include:

- Charities’ registration documents
 - Purpose and activities of the organization
 - Names, titles and addresses of officers
- Information contained in donors’ income tax returns
 - Receipts
 - Donors’ income
 - Donations’ history
 - Name/Type of Charities
- Charities’ books and records
 - Revenue
 - Payments to highly paid employees, contractors
 - Balance sheet
 - Expenditures
- Charities’ banking records
- Annual Registered Charity Information Returns (if applicable)

- Revenue
- Name of professional fund-raiser
- Salaries to directors, managers, employees
- Name of donee
- Disbursement quota
- Informant leads⁷.
- Open source information
 - Internet
 - Media
- Domestic intelligence agencies
 - FINTRAC (Financial Transactions Reports Analysis Centre of Canada)
 - FIU (Financial Intelligence Unit)
 - FBI (Federal Bureau of Investigation)
- Law enforcement authorities
 - Police

41. Several countries reported that their tax authorities have arrangements with other government and third party agencies [e.g. Memoranda of Understanding (MOUs)] to exchange information on relevant matters. Such other government institutions include social security, customs and immigration agencies; motor vehicle information such as the driver's licence and birth registrars; police and other law enforcement agencies; overseas tax authorities; postal services and trade commissions.

Examples of information used to detect the abuse of charities, including information sharing arrangements between tax and other domestic law enforcement agencies

Italy: The Revenue Agency has entered into protocols of understanding with bodies operating in sectors related to non commercial entities in order to cross-check the information available (e.g. SIAE "Società Italiana Autori ed Editori"- Central agency for the collection of copyright duties).

Netherlands: The Dutch tax administration can obtain information from another Member State of the European Union for Income Tax and Corporate Income Tax purposes because of the Mutual Assistance Directive (77/799/EEC). The Recovery Directive (76/308/EEC) is in principle applicable for Income Tax, Corporate Income Tax, Gift Tax and Inheritance Tax purposes.

Spain: The Spanish Tax Administration has been able to detect the abuse of charities by conducting analysis of flows of currencies between Spain and other countries and also, by reviewing the information received from tax haven territories during the course of investigations carried out by judicial authorities.

US: The IRS does not systematically match filing data of tax-exempt organizations against a comprehensive list of potential terrorists to detect instances in which charitable and other NPOs may be linked to terrorist activities. Instead, IRS personnel manually review all tax-exempt documents and compare information from them to a United States Department of the Treasury terrorist watch list⁸.

⁷ In Canada, individuals can make a complaint in writing or by telephone about a particular registered charity <http://www.cra-arc.gc.ca/tx/chrts/rsltns/complaints-eng.html>.

⁸ Screening Tax-Exempt Organizations' filing information provides minimal assurance that potential terrorist-related activities are identified <http://www.treas.gov/tigta/auditreports/2007reports/200710082fr.pdf>.

How countries investigate cases of suspected tax evasion and money laundering involving the abuse of charities (including multi-agency cooperation)

42. Most countries also use traditional investigative methods including in-depth audits, the use of production orders and search warrants to investigate cases of the abuse of charities.

Examples of investigative strategies and techniques

UK: HMRC uses traditional investigative methods including records examination and production orders. The Charities tax team works closely with other branches of HMRC including the criminal investigation section and also with the charity regulators.

US: The US has exclusive access to critical tax-related information concerning charities and donors and unique expertise in analyzing this information. Through joint task forces, this expertise and access can be coupled with the investigative expertise and experience of other law enforcement agencies and financial crime experts. Within the IRS, the civil examiners in the Tax Exempt and Government Entities (TEGE) section have a unique familiarity with the charitable sector and the reporting, recordkeeping and disclosure obligations of the sector under the federal income tax laws. This experience is critical to the criminal investigative efforts of IRS Criminal Investigation (CI). The IRS has established a number of mechanisms to ensure that TEGE and CI communicate and work together on potential cases involving the abuse of charities. Regarding terrorist financing, these mechanisms include: cross-training initiatives and programs whereby TEGE examiners and CI investigators learn about each other's operations, resources and needs; staffing TEGE examiners on task forces dedicated to investigating terrorist financing leads in the charitable sector; and sharing red flags, typologies and information from CI to TEGE to assist in conducting examinations on charities particularly vulnerable to terrorist abuse. In addition, the Terrorist Financing Unit of the Counterterrorism Section of the Department of Justice (DOJ) is leading a multi-agency effort to investigate and prosecute charitable entities that are involved in providing support for terrorists. Working with agents from the IRS, prosecutors are reviewing government filings of entities recognized under § 501(c)(3) of the Internal Revenue Code, and comparing these disclosures with information developed from other governmental agencies. To the extent there is a disparity, prosecutors initiate criminal proceedings which charge appropriate persons with tax fraud, false statement and terrorist financing offenses.

43. Several countries report that their tax authority investigates cases the abuse of charities either independently or in partnership with other law enforcement agencies (including FIUs).

Examples of multi-agency cooperation to investigate cases involving tax evasion and/or money laundering involving the abuse of charities

Canada: Some of CRA investigations are conducted jointly with other law enforcement agencies, such as the Royal Canadian Mounted Police, who have other investigative tools which they can employ. Canada is also receiving disclosures from its FIU.

Czech Republic: Every single case solved by the FIU was reported by means of a suspicious transactions report which comes from endorser/alienee of commercial instruments and financial institutions (remittances from/to accounts of individuals, remittances to foreign countries, cash withdrawals, alleged connection with financing of political parties).

Italy: Tax auditors of the Revenue Agency and the Units of the Italy's Finance Police in charge of tax policing both carry out investigation activities. The financial analysis is carried out by the Financial Intelligence Unit of the Bank of Italy.

Norway: The investigations involving the abuse of charities are conducted by the police with the assistance of the tax crime unit.

Spain: These cases are investigated by requesting banking information. Banks involved in these kinds of investigations are sometimes from foreign countries. The collaboration of the authority of the respective country is therefore required.

US: Some of the IRS investigations are conducted jointly with Special Agents for the FBI and members of the US Attorney's office.⁹

Effective measures undertaken by tax and other government agencies to increase compliance and deter non-compliance regarding the abuse of charities

44. Several of the countries surveyed reported that they have implemented a range of strategies that have proven effective to reduce the opportunity to commit tax fraud and/or money laundering that involved the abuse of charities. Effective strategies in this regard generally involve changes in the legislation.

45. In countries such as **Canada** and the **US**, awareness campaigns have been introduced to alert the public about the risks associated with the abuse of charities. **Canada** and the **US** have put out tax alerts on their websites¹⁰ about donation schemes, such as a tax shelter, and the abuse by intermediaries, such as tax return preparers, with respect to charitable donations. In **Canada**, taxpayers can search the online charities listing¹¹ and have access to the list of the registered charities, the newly registered charities, charities whose status have been revoked and suspended, and which charities have been permanently annulled or have been assessed a penalty. The public can also review the annual information returns filed by registered charities. The CRA's donor alert link¹² recommends to taxpayers to protect themselves against fraud, warns them not to get involved in illegal tax filing and informs them about donation schemes. In the **US**, tax alerts have been put on the IRS website titled: Tactics Used by Dishonest Abusive Return Preparers. It states that dishonest return preparers use a variety of methods to formulate fraudulent and illegal deductions for reducing taxable income including false and inflated itemized deductions on Schedule A for charitable contributions.

Examples of measures undertaken by tax and other government agencies to increase compliance and deter non-compliance regarding the abuse of charities, including legislation changes, education and other awareness campaigns.

Argentina: Article 20, Paragraph 18 of Act No. 25246 (Aiding and Abetting and Asset Laundering) sets forth the obligation to Report Suspicious Transactions to the Financial Information Unit for all the legal persons that receive donations or contributions from third parties.

Belgium: In an April 2003 Belgian report relating to the audit of corporations not subject to the corporate tax, the Belgian Court of Auditors made various recommendations to improve these types of audit. This report led to a measure that came into force on September 1st, 2008. Prior to this date, there were only a few tax departments specializing in Corporate Income Tax (CIT) audits. They

⁹ <http://sports.espn.go.com/ncb/news/story?id=3424753>

¹⁰ US: <http://www.irs.gov/compliance/enforcement/article/0,,id=106774,00.html>
Canada: <http://www.cra-arc.gc.ca/tx/chrts/dnrs/lrt/menu-eng.html>;

¹¹ http://www.cra-arc.gc.ca/tx/chrts/nln_lstngs/chrty_lstngs-eng.html

¹² <http://www.cra-arc.gc.ca/tx/chrts/dnrs/lrt/menu-eng.html>

were located in the country's large urban centres. Outside these major centres, audits were performed by departments specializing in audits for individual income tax returns and, where required to audit those liable for CIT. Since then, a specialized CIT audit function has been put in place in each regional branch of the Tax Administration with the mandate of auditing those liable for CIT from the regional branch.

Canada: The CRA Directorate responsible for administering tax law for charities has enhanced the compliance aspect of their administration of those tax laws through the use of risk assessment for audit and verification purposes. Also, it has, since 2006, significantly increased its information targeted at donors and at charities. In November 2007, there was a Direct Mail campaign called “Be An Informed Donor” which was mailed to 400 000 households in Canada that had previously claimed a donation on their income tax returns. The letter asked donors to verify the CRA Charities Listings to confirm that the charity is registered with the CRA and it also warned donors to beware of schemes that promised tax savings greater than the donation. Legislation changes concerning penalties for charities [*Income Tax Act*¹³, subsection 188.1 (1)] and false information [subsection 188.1(9)] have been effective. For instance, a registered charity is liable to a penalty equal to 5% of its gross revenue for a taxation year from any business that it carries on in the taxation year, if the registered charity is a private foundation or is not a private foundation and the business is not related business in relation to the charity. Concerning false information, the *Income Tax Act* states that if at any time a person makes or furnishes, participates in the making of or causes another person to make or furnish a statement that the person knows, or would reasonably be expected to know but for circumstances amounting to culpable conduct, the person (or, where the person is an officer, employee, official or agent of a registered charity, the registered charity) is liable for their taxation year that includes that time to a penalty equal to 125% of the amount reported on the receipt as representing the amount in respect of which a taxpayer may claim a deduction or a credit.

Chile: In August 6, 2003 Law N° 19.885 was enacted, in order to establish tax benefits for the taxpayers of the First Category Tax. Within the mentioned law, Article 10, included a regulation that obliges to consolidate all the donations for the determination of the tax benefits and also excludes the possibility that between donor and donee there could exist “remunerated donations”. This last measure was enacted to prevent abuses that have been detected in the university sector, where a case occurred in which a donation by a company to a university was directly related with the granting of a scholarship for that university to a person linked to the company. Also, Law N° 19.885 added a number 24 to Article 97 of the Tax Code in order to prevent (and punish) the use of charities and donations to commit tax evasion. The tax control of charities, including tax compliance programs, are carried out by a special office, at the Large Taxpayers Division of the Chilean Tax Administration, which must prevent the abuse of charities and audit these entities. It is planned, that the mentioned office will be given additional resources and attributions as a part of a medium term program (one to three years) that will provide directions and strategies for other units of the tax administration.

Czech Republic: No specific measures have been implemented, however, new legislation, which should assure more transparency in non-profit sector, is being discussed.

In **Germany**, the law pertaining to associations has very many formal requirements designed to ensure their correct operation and to prevent abuse. Reference is made in this respect to the number of founding members, the rights of the general meeting, the involvement of the court of registration

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<http://laws.justice.gc.ca/en/showtdm/cs/I-3.3>

and the unrestricted public access to the register of association. An association which issues a false donation receipt deliberately or as a result of gross negligence is liable for the tax revenue shortfall caused by the deduction in the amount of 30 % of the donation in respect of income or corporation tax and 15 % in respect of trade tax.

Italy: In 2007, the "Nucleo Speciale Entrate" of the Guardia di Finanza launched a project called "Artemide" aimed at fighting tax frauds perpetrated by ONLUS which unduly benefited from tax benefits. Furthermore, the limitation of the use of cash and bearer instruments provided for by domestic AML legislation (art. 49 of Legislative Decree 231/2007) applies also to charitable entities. The Bank of Italy mandates financial intermediaries to examine "carefully and promptly" every contractual relationship and operation which can be connected, directly or indirectly, with organizations that, while declaring that they carry out non profit, charitable or socially useful activities, are unable to provide supporting evidence.

Norway has implemented a limitation on deductions combined with the registration of the charities in a centralized database.

Turkey: In order to combat laundering of the proceeds of crime in a more effective way and prevent the use of the financial system by criminals, certain obligations have been introduced in both the international area and in domestic law for financial institutions and some other professional organisations.

UK: They introduced legislation to stop the activity in specific areas where the abuse was identified. Their compliance efforts are risk based and they are making better use of publicly available data on charities to target their compliance efforts.

The US has a comprehensive system of charitable oversight that has been implemented to help reduce the opportunity of abuse in the charitable sector. In the US, the transparency of the charitable sector is managed by a three-level web of oversight consisting of: (i) the federal government; (ii) state authorities; and (iii) the private sector. In addition, the US has implemented a risk-based targeting strategy which relies upon actionable intelligence or information to help reduce the opportunity of abuse. As in the case of terrorist financing, this intelligence or information becomes a lead which is channelled to those task forces and authorities that can analyze and act on the information. They have developed red flag indicators based upon case typologies and are promoting awareness of terrorist financing risks to improve the abilities of the sector and the general public to report relevant information. The information-sharing and investigational capabilities in combating terrorist financing through the abuse of charities critically depends upon communication, coordination and collaboration mechanisms the US has constructed to combat terrorist financing generally.

Results of activities designed to detect and address non-compliance, and to promote compliance

46. Some countries are able to measure the results of their tax authority's compliance activities in terms of detecting and investigating tax fraud and/or money laundering in the cases of the abuse of charities. Others have found it more difficult. For instance, in the US, the large and diverse nature of the charitable sector, coupled with the comprehensive oversight and investigative approach adopted by the U.S. presents a number of challenges in quantifying results relative to the abuse of the charitable sector.

Examples or results of successful activities designed to detect and address non-compliance

Belgium: Since the specialized CIT audit function has been put in place, this measure should make audits conducted on organizations liable for CIT and on registered organizations or organizations applying for registration, more consistent and more efficient.

Canada: The Canadian Tax Authority (CRA) conducted a pilot project prior to the last filing tax season (period of February 4, 2008 to March 28, 2008). The mandate of these cross-functional teams consisted of 1) working collaboratively in identifying suspicious activities while processing the 2007 T1 Income Tax and Benefit Returns (pre-assessment risk analysis) 2) validating charitable donation claims (letters sent to taxpayers requesting their receipts and proofs of payment); 3) reacting to identified suspicious activity in a more timely manner; and 4) conducting a more in-depth risk assessment of suspicious claims. The Tax Authority for Canada was able to intercept the returns prior to their assessment and therefore avoided the subsequent use of resources to correct the situation and to recover the funds.

Chile: Tax audits that have been executed during recent years show a low level of tax evasion related to charities.

Italy: No official estimates are available as of yet, however, the investigation activity concerning non commercial entities and ONLUS has increased over the past few years. For instance, in 2007, the Guardia di Finanza has assessed in this sector a tax evasion in direct taxation for an amount almost equal to the total amount assessed over the preceding three-year period (2003 to 2006).

UK: Some of the anti-avoidance legislation is too new to quantify any effect whilst other sections have been totally successful in stopping the abuse they were aimed at. Their compliance efforts with charities produced recoveries of around £15 million (€19 million) in the 2007 financial year. They cannot quantify recoveries from donors related to abuse of charity reliefs although cases related to the gifts of assets will yield around £75million (€94 million) if they are successful. HMRC have also been successful in prosecuting individuals who have misused charities in order to evade taxes and make false repayment claims. Sentences ranged between 2 – 4 years and confiscation proceeding have been used in order to recover the proceeds of the criminal conduct.

Recommendations and conclusion

47. This report has outlined multiple methods and schemes used to commit tax evasion involving the abuse of charities. These strategies will likely continue to evolve. The abuse of charities is becoming more organized and more sophisticated. Most countries surveyed, that have identified problems with the abuse of charities, are having difficulties to detect all cases of abuse of charities and to quantify the risks associated with the abuse of charities for their respective tax administrations and the public in general. The electronic tax filing methods, including direct deposit refunds, used by tax administrations present significant challenges to quickly detect and deter the abuses of charities. It is essential for the tax authorities to implement or refine strategies to effectively address the risks of the abuse of charities.

48. It is recommended that tax administrations vulnerable to the risk of abuse of the charity sector consider implementing the following good practices:

- Maintain a central registry of all suspicious activities to identify and analyze trends;
- Maintain reliable information on the real level of threat, vulnerability and compliance;
- Implement cross-functional teams;
- Implement an automated cross-check system;
- Identify and develop relevant data sources;
- Exchange information and good practices on an ongoing basis;
- Input an “abuse of charities” indicator on suspicious files; and
- Establish a mechanism to facilitate the exchange of information between tax authorities, law enforcement agencies, etc.

ANNEX 1 – THE QUESTIONNAIRE AND THE RESPONSES PROVIDED BY THE COUNTRIES

Q1: Please briefly describe the status, regulation and tax benefits conferring to charities in your country.

Country	Response
<p>Argentina</p>	<p>A charity is a legal person that develops a charitable activity -whether it is a social welfare activity, or an activity aiming at common good or the public interest- and known as such by the legislation that specifically regulates them.</p> <p>For example, in the City of Buenos Aires, the regulatory authority is the <i>Inspección General de Justicia</i> (Inspection Board of Legal Entities) - <i>Departamento de Fundaciones y Asociaciones Civiles</i> (Department of Foundations and Civil Associations).</p> <p>According to the Argentine regulatory framework, the control authority of these entities operates in administrative proceedings at national level, delegating the registration, control and auditing of legal persons to the provincial administrative authority. Therefore, each province has a specific legislation and a control body.</p> <p>Regarding tax purposes, charities have the benefit of being exempted from the Income Tax in relation to the financial income obtained during the performance of its charitable activity. To receive such benefit, charities must be recorded in a register before the Federal Tax Administration. The approval or denial of this benefit for inclusion in said register; is the result of the analysis of the information required from the requesting party to support their legal status by the tax authority.</p> <p>On the other hand donors, prior to making a donation to an exempted entity, are required to visit the web page of the Federal Administration of Public Revenues (AFIP, as per the Spanish acronym), in order to verify that the benefit is still effective.</p> <p>If the benefit is still effective, the donation can be deducted from the income reached by the Income Tax, up to 5% of the total amount of the net profits. In turn, the Tax Administration's norms define that cash donations must be made through bank deposits in the donee's bank account. Likewise, it relies on a Reporting System that applies to:</p> <ol style="list-style-type: none"> 1) Employers, regarding donations made "for the account and by order of" their employees, 2) Donors (Individuals, Undivided Inheritances and Legal Persons) and 3) Donees, regarding the donations they receive.

	<p>It is worth pointing out that Article 20, Paragraph 18 of Act No. 25246 (Aiding and Abetting and Asset Laundering) sets forth the obligation to Report Suspicious Transaction to the Financial Information Unit for all the legal persons that receive donations or contributions from third parties.</p>
Austria	<p>Charities in the meaning of non profit organizations have to register themselves in the Austrian charities register which is administered by administrative authorities under supervision of the Ministry of Interior (Police). The main precondition for registration is the existence of a given statute and the nomination of officials. A registration can be rejected by the competent authority, if the charity would harm existing legislation by its purpose, its name or its organization (Article 11 para 2 of the Council of Europe Convention on human rights).</p> <p>Charities are taxable subjects in general, but insofar they are engaged in public welfare matters due to the given purpose of the charity they are exempted from income taxes. Nevertheless the payroll tax has to be paid just as the social insurance fees for employed persons.</p> <p>Tax benefits to the donors are very limited in Austria. Only donations for charities which pursue science and research matters are accepted by law to reduce the basis for the assessment of the income tax for the current year up to the extent of 10% of the income of the last year. Donations for these kinds of charities exceeding this amount are not tax deductible as well as donations to all other charities.</p>
Belgium	<p>Cash donations of € 30 or more are tax-deductible if made to registered corporations who have received authorization to issue tax receipts to their donors.</p> <p>The vast majority of corporations authorized to issue tax receipts are subject to a pre-registration procedure. Registration is not permanent: corporations are registered for a limited time only (maximum six consecutive calendar years) but it is renewable.</p> <p>Some corporations are permanently registered because they are cited by name in the Code belge des impôts sur les revenus 1992 [1992 Belgian income tax act] (abbreviated as CIR 92) (e.g. Fonds fédéral de la recherche scientifique, Croix-Rouge de Belgique, Fondation Roi Baudouin, Child Focus) or they fall under a corporate category cited in this Code for which the legal document does not provide for any pre-registration procedure (e.g. Belgian universities, royal academies, public social action centres, sheltered work centres and some museums).</p> <p>Corporations subject to the pre-registration procedure must meet a series of conditions, including:</p> <ul style="list-style-type: none"> - having the legal personality under Belgian, public or private law; - not seeking profit, either for themselves or their members as such; - carrying out activities that fall under one of the areas set forth in CIR 92; - having an area of activity or influence of a certain scope; - receiving grants from certain public authorities; - allocating no more than 20% of their resources of any kind to cover their general administrative costs.

	<p>The non-profit requirement implies that only corporations subject to corporate income tax (CIT) can apply for registration.</p> <p>Corporations subject to CIT are not taxed on their overall annual net income but only:</p> <ul style="list-style-type: none"> - on real estate income; - on income from capital and movables; - on certain miscellaneous income. <p>Donations are deductible if they total at least €30 per beneficiary organization and accompanied by a tax receipt.</p> <p>The beneficiary organization must send the Belgian Headquarters a copy of the receipts issued to its donors as well as a summary list of those receipts.</p> <p>Both "individual" taxpayers as well as "corporate" taxpayers may deduct donations from their income tax.</p> <p>For an "individual" donor, the overall deductible amount cannot exceed 10% of the overall net income or €331 200 (applicable amount for the 2009 tax year, income for 2008).</p> <p>For a "corporate" donor, limits are 5% and €500 000, respectively.</p> <p>Donations to Belgian universities, scientific institutions, deducted from awards and subsidies that were taxed as income, are no longer deductible in this case and are no longer considered when calculating the threshold amount.</p>
Canada	<p>The voluntary sector is composed of approximately 750 000 unincorporated community organisations (e.g., a neighbourhood association, a sports league), 81000 non-profit corporations and 83 000 registered charities. A non-profit organization (NPO) is described in the Canadian Income Tax Act as a club, a society or an association that is not a charity as defined in the Act that is organised and operated solely for: social welfare; civic improvement; pleasure or recreation; or any other purpose except profit. No part of income can be payable to or available for the personal benefit of any proprietor, member or shareholder. There is an exception to promote amateur athletics in Canada. As such an NPO is exempt from tax on all or part of its taxable income for a fiscal period, if it meets all the requirements. Examples of an NPO in Canada would include the following: Dental Association, Management Accountants Society, Board of Trade, City Non-profit Housing Corporation, Airport Authority, Egg Producer's Marketing Board, Student Association, Institute for Theatre Arts, Stock Exchange, Automobile Dealers Association, Medical Association, etc.</p> <p>A registered charity means a charitable organization, public foundation, or private foundation that was established in Canada and is resident in Canada. The registered charity must be operated for charitable purposes and must devote its resources to charitable activities. A registered charity has received a Registration Number from the Canada Revenue Agency and is exempt from paying tax on its revenue. It can issue donation receipts for gifts that it receives. Once registered as such, it accrues certain advantages and responsibilities. Being a registered charity in Canada confers credibility and legitimacy on the organization. For instance registered charities are exempt from paying income tax; donors are rewarded with a tax deduction or credit</p>

	<p>where up to 75% of annual net income can be donated and receipted for registered charities. Tax credits are calculated as a percentage of the amount donated in a given year. For instance, in 2006, the first \$200 (€127) was eligible for a federal tax credit of 15.25 percent of the donation amount. After the first \$200, the federal tax credit increases to 29 percent of the amount over \$200. In addition, gifts can be made to registered charities in other form than cash. The designation as a registered charity also means meeting certain obligations such as meeting and maintaining the legal definition and the disbursement quota of a Charity; restricting political and commercial activities; filing an Annual Registered Charity Information Return; maintaining adequate books and records in Canada; being transparent by having its Annual Information Returns posted on the Canada Revenue Agency web site. In Canada, 51% of non-profit and voluntary organizations are registered charities. In 2005, registered charities generated annual tax receipted donations of \$7.9 billion (€5.7 billion) resulting in foregone federal revenues of between \$2 (€1.2 billion) and \$2.5 billion (€1.3 billion).</p>
<p>Chile</p>	<p>There are two types of not for profit organizations (charities) in Chile. The first one is composed by Foundations (<i>Fundaciones</i>) and Corporations (<i>Corporaciones</i>) regulated by the Civil Code and the Organic Law of Municipalities and the D.S. (<i>Decreto Supremo</i>) N°110, of 1979, from the Ministry of Justice. These entities are entitled by law to act as charitable organizations. The second type is composed by a group of entities regulated by special laws and with different purposes, which are of private or public nature. The private nature entities have different purposes, such as professional associations, labour unions, municipal level activities (i.e. amateur sport organizations), indigenous communities and political parties, etc. The public nature entities mainly include religious organizations and State related entities.</p> <p>To operate in Chile, these non profit organizations are required to have a Tax Identification Number and to make a sworn statement by which the Tax Administration is notified of the starting up of its activities that may be subject to tax, in which all relevant information related with these organizations must be included, like members identification, their representative identification, address, and all useful information for auditing purposes.</p> <p>As taxpayer, their tax behaviour must be in accordance with Chilean domestic tax law, instructions and regulations issued by the Chilean tax authority.</p> <p>For special types of donations established in special laws, an exemption from the Gift Tax is allowed. Likewise, for these special donations, the procedure known as “<i>Insinuación</i>”, which consists of a judicial procedure that as a general rule must be fulfilled before executing the donation, is usually waived. For instance, Article 18 of the Law N° 16.271 (Gift and Inheritance Act) exempts from the Gift Tax several donations including low amount donations, donations to municipalities, foundations or corporations, donations with only welfare, educational or scientific purposes, or for the construction or repair of churches.</p> <p>For Income Tax purposes, certain types of donations, under specific conditions established in special laws, can be subject to the following incentives, which are available for charitable contributions, either jointly or separately:</p> <p>a) Tax Credit: It consists of reducing the liable Income Tax to be paid by the donor,</p>

	<p>with the amount of the donation, in that tax year. This benefit is usually limited to the 50% of the donation, or a maximum amount equivalent to a percentage of the taxable income. No benefit is allowed if the taxpayer has accumulated losses.</p> <p>b) Expense allowance: the amount of the donation that is not considered as credit is considered as a deductible expense, in order to determinate the taxable income subject to Income Tax. This benefit is also not available if the taxpayer has accumulated losses.</p> <p>In order to obtain these tax benefits, the Tax Authority must be informed of donations received. For these purposes, a sworn statement must be submitted in March of the following year, including the amount received as donation, the date, and donor identification. For crossed information purposes, - and using a pre-defined format receipt- the same information must be provided by the recipient organization to the donor at the time the donation was executed. Finally the donor must declare an Income Tax Return submitted in April of the following year, on which the amount of charitable contribution is declared, in order to get the corresponding benefit.</p> <p>The income tax law is not particularly flexible for these entities, with respect to donations. Benefits and deductions are allowed only in special cases, and if they do not meet the requirements, the donated amount is subject to a control tax and would not be deductible.</p>
<p>Czech Republic</p>	<p>Various types of non-profit organizations can be found. Each type is subject of different registering procedures and accounting provisions - no common register of non-profit organizations exists. They can be established for different purposes. Nevertheless some of them operate as a charity, that mean that these organizations or their donors can benefit from special tax regime.</p> <p>Foundation can operate only as a charity, i.e. only for public purpose, not for private benefit of its founders. Each foundation has to set up limits on its administrative expenditures (e.g. management remuneration). Restrictions on certain transaction regarding investment are applied in order to avoid losses. The income of foundations is subject of tax exemption. They are obliged to prepare Annual Report and fill it in the Register, where is publicly accessible. An audit of books and records becomes compulsory, in case the annual revenue or total assets reach 3 million CZK (€122 500).</p> <p>Other entities such as associations or other similar not-for-profit corporations can also operate as charity (optionally or partially). In case they reach a “profit”, they can reduce their tax base with 30 %, maximum up to 1 million CZK (€41 000) (in some cases 3 million CZK – €122 500). Reduction of tax base up to 300 000 CZK (€12 250) is not limited with any percentage. Resources obtained from this reduction have to be spent only for specific purpose of the entity (cannot be distributed among members or founders). Generally, such entities have only to fill an income return (public report or audit is required only in specific cases).</p> <p>Donors are entitled to tax reduction up to 10% of their annual net income. Minimum donation, for which the tax deduction can be applied is 1 % of net income or 2 000 CZK (€ 81). Such advantage can be obtained only regarding donation on specific purpose. No specific rules are applied on donation receipts</p>

Denmark	<p>Charities are all specially registered in the Danish tax system – if they want their donors to get tax deductions.</p> <p>There are two kinds:</p> <p><u>“Collecting”</u> A person/firm can only deduct from DKK 500 (€67) to DKK 14 000 (€1 800) a year shared on one or several charities. The taxpayer has to get a receipt from an approved charity. The charities have to declare the amount and identification to the tax authorities.</p> <p><u>“Welfare payments to charities and religious societies”</u> Current benefits under an obligation approved by the Tax Administration. The taxpayer can deduct up to 15% of his income – and at least DKK 15.000 (€2 000) a year.</p> <p>The approval is determined by the use of the money and there are special demands to the charities accounts.</p> <p><u>“Others”</u> If they don’t want tax deductions – they can be more or less out of our control! But then it is hardly qualified money laundering?</p>
France	<p>In France, non-profit organizations are associations subject to the law of 1901, religious congregations, foundations recognized as serving the public good, business foundations and associations governed by current local law in Alsace Moselle. Non-profit organizations cannot be registered in the business and corporation registry unless they issue bonds or usually conduct manual exchange transactions. Some types of associations are subject to prescriptions regarding bookkeeping and application of an accounting plan.</p> <p>As long as they adhere to the non-profit framework, non-profit organizations are exempt from business taxes (value-added tax, corporate taxes and professional taxes). Conducting profitable activities will likely bring into question the benefit of such exemptions. Determination of an organization’s profitable nature results in steps being taken for each activity of the organization (self-serving management or not, possible competition with businesses in the for-profit sector and prerequisites). However, non-profit organizations are required to pay corporate taxes on capital income (income from land, farming or real estate) at a rate of 24%. This rate is 10% on certain real estate income.</p> <p>Individual donors are entitled to a tax deduction from their income tax equal to 66% of the donation. Businesses receive a tax deduction from corporate income tax equal to 60% of payments taken from the 5% of sales limit. Donations to fund work on a private historical monument have been tax deductible since January 1, 2007.</p> <p>The French tax administration has appointed an individual to be responsible for associations at each of its branches at the departmental level. That individual’s mission is to answer questions from associations and to help them determine what steps to take, based on the type of activities that they carry out, i.e. determine whether they conduct for-profit or non-profit activities, and their financial obligations.</p>
Germany	<p>Both incorporated and unincorporated associations may have a public-benefit purpose, as may foundations and incorporated companies. The following deals only with incorporated associations, as it is relatively seldom for unincorporated associations and incorporated companies to function as “donation-collecting asso-</p>

ciations” and very stringent regulations apply to the establishment and operation of foundations.

Consequences of public-benefit status:

- Public-benefit status attracts concessions in respect of all major types of tax.
- In addition to direct tax concessions, the law provides considerable incentive to encourage the financing of public-benefit, religious and charitable associations by allowing the deduction of donations.
- An association which issues a donation receipt deliberately or as a result of gross negligence is liable for the tax revenue shortfall caused by the deduction in the amount of 30 % of the donation in respect of income or corporation tax and 15 % in respect of trade tax.

Legal provisions designed to prevent abuse in setting up an incorporated association

- The association must be entered in the register of associations kept at the local court (section 55 Civil Code - BGB).
- Minimum number of members: 7 persons (section 56 BGB).
- Minimum requirements and recommended content of the statute (sections 57, 58, 25 BGB).
- Appointment of a Board (section 27 BGB).
- General meeting (sections 32, 36, 37 BGB).
- The registration must include
 - the association (section 64 BGB) and its specific particulars;
 - the Board and the liquidators (sections 64, 67, 76 BGB);
 - the powers of representation of the Board and the liquidators (sections 64, 70, 76 paragraph 1, second sentence, BGB);
 - changes in the statute (section 71 BGB);
 - dissolution, withdrawal of legal capacity, institution of insolvency proceedings (sections 74, 75 BGB).

It may be concluded that the law pertaining to associations in the Federal Republic of Germany has very many formal requirements designed to ensure their correct operation and to prevent abuse.

Reference is made in this respect to the number of founding members, the rights of the general meeting, the involvement of the court of registration and the unrestricted public access to the register of associations.

Recognition of incorporated associations by the tax authorities

In view of the extensive tax concessions and other advantages, many different kinds of associations endeavour to achieve recognition of their public-benefit status. The German Fiscal Code (AO) sets out the requirements for public-benefit status (sections 52 to 54 AO).

	<p>Among others, the following conditions must be satisfied if an association is to be recognised as having public-benefit status:</p> <ul style="list-style-type: none"> • The public-benefit purposes and the intended manner in which these purposes are to be achieved must be set out in detail in the statute (specimen statute). • The tax authorities generally review whether the requirements for public-benefit status are met every three years on the basis of a tax return to be submitted by the association. The review always covers the past three years. • The resources of a public-benefit association may be used only for the purposes set out in the statute. • Public-benefit associations must in principle expend the revenue accruing to them on a current basis (without undue delay) for the purposes set out in the statute. • Associations must in principle themselves directly achieve their tax-privileged objectives. • Tax offices do not recognize public-benefits status where the constitution is breached. <p>It may be concluded that associations collecting donations set great store by “public benefit” status as a means of enhancing their image and because it entitles them to issue donation receipts.</p> <p>The law relating to public-benefit associations contains other formal requirements relating to management and control mechanisms extending to the above-mentioned (very marked) liability amounting to 30 % of the donation amount. The persons concerned may also be personally liable in the case of offences described in this document.</p>
Ireland	<p>In Ireland there is, as yet, no regulatory authority for charities. However the Charities Bill 2007 currently before Parliament proposes the establishment of a new Charities Regulatory Authority, which will regulate all charities that operate within the state.</p> <p>The Revenue Commissioners in Ireland have for many years operated a Tax Exemption Scheme for Charities and also have implemented a tax relief scheme for donations to charities.</p> <p>On application from a charity the Revenue Commissioners grant Tax Exemption and issue a CHY number if the applicant fulfils the criteria for the exemption. The <i>Statute of Charitable Uses 1601</i> and the <i>Statute of Charitable Uses 1634</i> are widely acknowledged as the statutory foundations for determining what constitutes a charity in Ireland. The decision in the 1891 case, <i>Commissioners for Special Purposes of Income Tax v Pemsel</i> set out guidelines for use in determining what charitable purpose is. According to these guidelines a charitable trust must be for either:</p> <ul style="list-style-type: none"> • The relief of poverty; • The advancement of religion; • The advancement of education; or • Other purposes beneficial to the community.

	<p>In addition, the purpose must also benefit the community or an appreciable section of the community and be exclusively charitable. These four headings and their underlying principles – known as the Pemsel categories – are used by the Irish Revenue Commissioners, together with case law, to establish whether an applicant group is entitled to charitable tax exemption.</p> <p>The tax code currently provides exemption for charities from Income Tax, Corporation Tax, Capital Gains Tax, Deposit Interest Retention Tax, Capital Acquisition Tax, Stamp Duty and Dividend Withholding Tax.</p> <p>The main criteria is a body or trust must be established for charitable purposes only and it's income and property must be applied for a charitable purpose.</p> <p>In addition in order to avail of the donations scheme, tax exemption must be in place for a period of not less than 2 years.</p> <p>The usual provisions apply as regards filing of accounts and maintaining adequate books and records.</p> <p>The Tax exemption will be withdrawn if all the conditions of the scheme are not adhered to.</p> <p>Tax relief applies to donations which :</p> <ul style="list-style-type: none"> • Are €250 or greater in one year • Are in the form of money or shares, or a combination of money and shares • Are not repayable • Do not confer a benefit on the donor or any person connected with the donor, and • Are not conditional on, or associated with, any arrangement involving the acquisition of property by the charity or approved body.
Italy	<p>In Italy, there is no unitary concept of “charities”. The category of <u>non commercial entities</u> (public and private entities other than companies resident within the territory of the State which carry out a commercial activity only in an incidental and marginal way) includes <u>ONLUS</u>: non profit organizations having the exclusive purpose of social solidarity in sectors strictly provided for by law.</p> <p>On the one hand, non commercial entities are liable to corporate income tax (IRES) but may be entitled to tax benefits if the Statutes has specific characteristics and is subject to a publicity regime.</p> <p>On the other, in order to be tax exempt on the income derived from the social activities that they carry out, Organizzazione Non Lucraiva di Utilita’ Sociale (Italian social organization – ONLUS) must be enrolled in a registry held by the Regional Directorate of the Revenue Agency which is territorially competent.</p> <p>A tax relief system is in place for donations made by companies or individuals in favour of non commercial entities and ONLUS: it is usually possible to deduct from reported income up to 2% of the amount of the donation. The law also provides for restrictions to the maximum deductible amount depending on the nature of the donor.</p>

<p>Netherlands</p>	<p>The Netherlands, like a lot of other countries, operate a system for granting tax relief/deductions in respect of charitable giving. Taxpayers can obtain a deduction for personal giving (Income Tax Act) or corporate giving (Corporate Income Tax Act) as long as the donations are made to certified charities. Additionally, donations from taxpayers to certified charities are exempted from inheritance tax and gift tax. Finally, donations from certified charities to charitable purposes are also exempted from inheritance tax and gift tax. Donations made to non-certified charities are not tax deductible or exempt from gift tax or inheritance tax (the applicable tax rate for gift tax and inheritance tax for such donations varies from 41% to 68%).</p> <p>Certification of charities:</p> <p>Charities can apply for certification by the Dutch tax administration if they meet certain criteria:</p> <ul style="list-style-type: none"> ▪ The charities have to be established in: <ul style="list-style-type: none"> - the Netherlands, - in another Member State of the European Union, - the Netherlands Antilles, - Aruba or - a State with whom the Netherlands can exchange information on the basis of an international agreement in the field of the income tax, corporate income tax, gift tax and inheritance tax. ▪ Furthermore, the ‘charity’ which is established in one of the above mentioned States has to be an institution in primary purpose serve an ‘ecclesiastical, philosophical, charitable, cultural, scientific or a general useful’ objective. In practice, the application of this legal enumeration is a result of case law. In general can be stated that the activities of a charity has to serve the public interest. Sporting clubs are not considered to serve the public interest, but the private benefit of the members of the club. Political parties for example do serve the public interest. ▪ Finally charities must comply with several other conditions with respect to organizational documents and the actual operations. <p>Charities which are established in other than the above mentioned States and serve an ‘ecclesiastical, philosophical, charitable, cultural, scientific or a general useful’ objective can not apply for certification. Notwithstanding this general rule, the Minister of Finance has the discretionary power to certify individual charities in these States. In that case, however, strict rules apply to the institution which must overcome the impossibility of the exchange of information between the Dutch tax administration and the tax administration of the other State.</p> <p>A certified charity is not permitted to maintain a total amount of assets which exceeds what is reasonably necessary for the continuity of the foreseeable activities for the objective of the institution. This is an open norm, which has to be filled in by case law more closely in the future.</p>
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Consequences of the loss of the charitable/public benefit status

An institution will lose its status as a certified charity if it does not serve an ‘ecclesiastical, philosophical, charitable, cultural, scientific or a general useful’ goal anymore or moved its seat to another State than the Netherlands or another EU Member State, the Netherlands Antilles, Aruba or a State with whom the Netherlands can exchange information on the basis of an international agreement in the field of the income tax, corporate income tax, gift tax and inheritance tax. Furthermore an institution will lose its status when it does not meet the other conditions with respect to organizational documents and the actual operations. The certificate issued by the tax administration will be revoked in that case. If the information which was provided by the institution seems to be incomplete or incorrect, then the tax authorities will have the power to revoke an already issued certificate for this specific institution with retroactive effect.

Donations from donors to these institutions after their certification had been revoked by the tax administration are not tax deductible for income tax and corporate income tax purposes or exempt from gift tax or inheritance tax (the applicable tax rate for gift tax and inheritance tax for such donations varies from 41% to 68%). Furthermore, donations made to their charitable purposes by these institutions after their certification is revoked by the tax administration are taxed with gift tax at a rate which varies from 41% to 68%. Finally, donations from donors to these institutions before their certification had been revoked remain tax deductible or tax exempt as long as it could be assumed that the donor was acting in good faith.

Donations - cash and in-kind

The Dutch system is not limited to donations in cash. In-kind donations are also covered and are in principle valued for their fair market value. The fair market value of the in-kind donations to a certified charity is taken into account as a deductible donation (for Income Tax and Corporate Income Tax purposes) and an exempted donation (for Gift Tax or Inheritance tax purposes).

The tax system

In both Income Tax and Corporate Income Tax a threshold is applied for the deductibility of personal giving and corporate giving. It is an income-related or profit-related threshold. The threshold in the Income Tax Act equals 1% of the taxable income (or at least €60). The sum of donations exceeding the threshold is tax deductible for the tax payer (donor). The total deduction is limited up to 10% of the taxable income. The threshold in the Corporate Income Tax equals €227. The sum of donations exceeding the threshold is tax deductible for the tax payer (donor). As well as in the Income Tax Act is the threshold in the Corporate Income Tax Act limited up to 10% of the taxable profit. This general system applies to so-called ‘regular’ donations.

A so-called ‘periodic’ donation is deductible without threshold or ceiling. A periodic donation is a notarized annuity with a fixed and even character and must be donated for at least 5 years.

Regulatory requirements and the exchange of information

Apart from the Dutch tax administrations, there are no other (semi) governmental institutions involved in the supervision of charities in the Netherlands. Additional

	<p>control takes place by means of the sector itself (self-regulation).</p> <p>Statistics</p> <p>The tax deduction for personal giving (in the Income Tax Act) and corporate giving (in the Corporate Income Tax Act) amounts to an annual budgetary loss of €254 million. Additionally, the exemption for personal and corporate giving to charities (for gift tax and inheritance tax purposes) amounts to an annual budgetary loss of €221 million. Under the old regime (until January 1, 2008), the Dutch tax administration recognised 18 000 (Dutch) charities. Under the old regime, taxpayers could obtain a deduction for personal giving (Income Tax Act) or corporate giving (Corporate Income Tax Act) as long as the donations were made to Dutch charities. Additionally, donations from taxpayers to Dutch charities were exempted from inheritance tax and gift tax. Finally, donations from Dutch charities to their charitable purposes were also exempted from inheritance tax and gift tax. Certification by the Dutch tax administration was not necessary. At this moment, it is still unclear how many charities have been certified by the Dutch tax administration under the new regime. Other (statistic) data are not available.</p>
<p>Norway</p>	<p>Registration in the Central Coordinating Register for Legal Entities and associated registers :</p> <p>The Central Coordinating Register for Legal Entities (CCRLE) is a central register of economic entities in Norway. It has several associated registers, for instance the Register of Employers, the Register of Business Enterprises, the County Governor's Register of Foundations and the Value Added Tax Registration List. All economic entities, including charities, that are obligated to obtain registration in any of the associated registers, must also apply for registration in the CCRLE.</p> <p>Tax benefits available to the charities :</p> <p>Non-profit institutions (companies, institutions, organizations, etc.) are generally exempted from income tax and wealth tax. However, non-profit institutions are liable to pay taxes on incomes from economic activities if the income exceeds a given threshold. As a general rule the standard threshold is Norwegian Kroner (NOK) 70 000 (€ 8,700), but there is a special threshold set at NOK 140 000 (€17500) for charitable and non-profit institutions and organizations.</p> <p>Charitable and non-profit institutions and organizations are exempted from the employers' general obligation to pay contributions to the National Insurance Scheme of wages and other remuneration as long as total annual wages etc. do not exceed 450 000 NOK (€56 400). The exemption only applies for payments up to NOK 45 000 (€5 640) per employee.</p> <p>All taxable persons, including charities, with taxable supplies that exceed a given threshold are obliged to obtain a VAT-registration. The standard threshold is NOK 50 000 (€6 200). For charitable and non-profit institutions and organizations there is a special threshold set at NOK 140 000 (€17 500). Value Added Tax (VAT)-registered persons are obliged to submit VAT returns and to pay VAT with reference to prescribed accounting periods.</p> <p>Tax benefits available to donors :</p>

	<p>Tax payers can claim deduction (in income) for donations to certain non-profit organizations. It is a general condition that the organization is doing either:</p> <ul style="list-style-type: none"> - social or health promoting work, - infantile or youth work, - religious or other denominational work, - activities to protect human rights or foreign aid, - disaster aid or activities to prevent disasters and accidents, or - culture conservation, environment and nature conservation or animal protection. <p>The donation to each charity must exceed NOK 500 (€62) annually, and the maximum annual deductible donation per tax payer is NOK 12 000 (€1 500).</p> <p>Information on the non-profit organizations, to which donations are deductible, is presented on the tax authorities web-pages. The organization is obligated to keep accounts of the donations and must report information on each donating tax payer to the tax authorities.</p> <p>The extend or these deductions are for the last two years:</p> <table border="1" data-bbox="424 965 1291 1167"> <thead> <tr> <th></th> <th>2005</th> <th>2006</th> </tr> </thead> <tbody> <tr> <td>Amount</td> <td>NOK 1 264 632 561 €158 million</td> <td>NOK 1 348 937 626 €169 million</td> </tr> <tr> <td>Persons/reports</td> <td>430 667</td> <td>439 330</td> </tr> </tbody> </table>		2005	2006	Amount	NOK 1 264 632 561 €158 million	NOK 1 348 937 626 €169 million	Persons/reports	430 667	439 330
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Portugal	<p>A – Description of the statute of Charitable Organizations</p> <ol style="list-style-type: none"> 1. Entities not developing any economic activity may be considered under the Civil Law as Foundations or Associations. 2. Associations or Foundations with charitable purposes assume the statute of Private Institutions of Social Solidarity (IPSS's) and are existent in law after their registration at the Directorate General of Social Security, in accordance to the regulation of the Registration of Private Institutions of Social Solidarity – implementing order n° 778/83 on the 23rd of July. <p>B – Tax exemptions and reductions</p> <ol style="list-style-type: none"> 3. According to the objectives pursued and as long the legal conditions are met, charitable organizations may obtain some exemptions, in terms of corporate tax (IRC) and VAT. 4. Administrative public utility legal persons or private institutions of social solidarity have an automatic corporate tax exemption. 5. Other public utility entities, which pursue exclusively or predominantly scientific or cultural aims, provide charity services, assistance, beneficence, social solidarity or environmental protection, need to apply to the Finance Ministry for a recognition of their public utility, according to Article 10 (c) of the Portuguese Corporate Tax Legislation. 									

	<p>6. In any case, corporate tax exemption depends on meeting certain conditions, as, for example, on assuring that a part of the organization's revenue is allocated to the prosecution of its objectives.</p> <p>7. According to Article 56 H of the Terms of Reference of Tax Exemptions, entities benefiting of donations are, generally, obliged to:</p> <ul style="list-style-type: none"> • Issue a supporting document of the amounts of donations received from their patrons, indicating the framework of the donation and mentioning that the donation is counterparts free. • Have an up to date registry of the patronage entities, indicating their designation and tax number, as well as the date and amount of each donation granted; • Submit until end February, to the Tax Administration, a yearly declaration, on an official form, of the donations received during the year before. <p>8. Concerning the donors, every donation granted to administrative public utility legal persons or public utility entities pursuing charity purposes, providing assistance, beneficence and social solidarity as well as to social solidarity cooperative societies, may be considered as cost or net loss, and may be calculated at 120%, 130% and 140% of the total amount of the donation, according to the entity benefiting from the donation to the maximum threshold of 8/1000 of the entity's turnover or of the services provided in accordance with Article 56 D (b) of the Terms of Reference of Tax Exemption.</p>
Spain	<p>In Spain there is a special regime for non-profit entities, in which, charities are included.</p> <p>This special fiscal regime basically consists on an exemption in the corporate income tax of the own entity, for contributions, donations, subsidies, incomes obtained as a result of the activity related with his specific goal, dividends of shares, and rents of real state.</p> <p>For the donors, the contributions do also have a reduction of 25 % of the donation on its own income tax for individuals, and 35% for corporations (with a limit on the amount of the donations of a 10% of the taxable profits).</p> <p>These organizations can be constituted in several ways, depending of its type.</p> <p>The foundations must be constituted by deed in the presence of a public notary. The non profits associations must be constituted by an act signed by the founders' members.</p> <p>All types of entities should be registered on a special public registry.</p> <p>The accountants' obligations are similar to the rest of corporations.</p>
Sweden	<p>Charities are tax exempt but there are no tax benefits available to the donors. The charities receive a registration number and are supervised by a private organization.</p>
Turkey	<p>Charitable organisations, public and private foundations that are resident and established in Turkey have generally no tax liability. Charities are exempt from paying income tax (corporate tax) on their revenue and can issue donation receipts for gifts that they receive. The donors are entitled to a deduction of up to 5% of their annual net income.</p>

United Kingdom	<p>In the UK a charity is a trust or body of persons established for charitable purposes only. Charitable purposes are defined in general law. The regulation of charities and the oversight of their tax affairs are dealt with by different bodies who work closely together when necessary.</p> <p>The charity regulators maintain registers of certain charities and monitor the activities, management and administration of registered bodies. The annual accounts of registered charities are public documents and are posted on the regulators' websites.</p> <p>Her Majesty's Revenue and Customs (HMRC) has responsibility for the tax affairs of all charities (whether registered or not) and donors. Charities are exempt from tax on income from certain sources to the extent that they spend it on their charitable purposes. Tax relief for individual and corporate donors is available for cash gifts and gifts of qualifying investments. There is no annual limit on donor relief for individuals but corporate donors are limited to relief up to 100% of chargeable profit. The tax affairs of charities and donors are confidential.</p>
United States	<p>Description and analysis</p> <p>The charitable sector consists of nearly one million public charities and private foundations. There are also approximately 350 000 churches or smaller public charities which are exempt from applying to the IRS. The IRS estimates that the charitable sector controls approximately USD 3 trillion (€2.36 trillion) in assets. Overall, these tax-exempt organizations form an important part of the U.S. economy, employing about one of every four workers in the U.S., and represent a significant portion of the financial resources under control of the NPO sector and a substantial share of the sector's international activities.</p> <p>Under U.S. law, any person or group may establish a charitable organization, and the creators of the organization are free to choose any charitable endeavour they wish to pursue. The U.S. has conducted a number of internal reviews of its domestic charitable sector.</p> <p>Supervision or monitoring of the NPO</p> <p>In the U.S., the NPO sector is monitored by the federal government and state authorities. Transparency is facilitated by federal tax laws, which provide that most information reported by tax-exempt NPOs to the Tax Exempt and Government Entities Division (TEGC) of the IRS is available to the public. The other main transparency mechanisms include the certification program for USAID. Charities operating in the U.S. are also subject to self-regulation managed by umbrella and watchdog organizations. The U.S. states and the District of Columbia oversee the fund-raising practices of charities domiciled or operating in their jurisdictions. Many of the larger states have a separate agency to oversee charities, including the Offices of the Attorneys General and State Charities Officials. Thirty-nine U.S. states require any charity to register before soliciting funds within the state, no matter where the charity is domiciled.</p> <p>Federal Laws</p> <p>Any organization may apply to the IRS for recognition of tax-exempt status provided it shows that it meets the requirements of section 501(c)(3) of the IRC. If an NPO for some reason does not choose to apply for tax exempt status, it will still have obligations to pay tax and the IRS will have oversight of such organizations in</p>

its role as the administrator of the US tax system. U.S. federal income tax law affords two principal advantages to organizations that qualify as charities under section 501(c)(3). First, charities are not taxed on income from their charitable activities. Second, under section 170(c), donors to eligible charities generally will be able to reduce their own federal income taxes (and usually State income taxes as well) by a percentage of the amount of their donation (as much as 40%). This second advantage helps to encourage donations to charities by making the gifts less of a burden to the donor.

Churches and equivalent institutions such as synagogues, temples, and mosques have a preferred status among other section 501(c)(3) organizations. They need not file applications for exempt status (Form 1023), as they are automatically recognized as being exempt. Section 6033(2)(A) of the IRC creates a mandatory exception from the requirement to file annual information returns (Form 990) for churches, their integrated auxiliaries, and conventions or associations of churches and organizations which conduct exclusively religious activities. Further, civil tax examinations of churches are subject to strict approval and notice procedures before they can begin. Although exempt from filing both Form 1023 applications (and annual Form 990 information returns), these organizations must still meet the financial record keeping requirements of IRC section 501(c)(3). Many churches seek IRS recognition of exempt status because it provides certain benefits, such as assuring church leaders, parishioners, and contributors that the church is eligible for tax-exemption and related tax benefits. In addition, State and local laws that exempt charitable organizations from State and local income and property taxes generally require the organization to demonstrate tax-exempt recognition by the IRS.

Foreign charities may also apply for tax exempt status in the U.S., however, foreign charities are not eligible to receive tax-deductible charitable contributions from U.S. taxpayers except as tax treaties may allow. A U.S. charity can carry on or financially support overseas charitable programs as part or all of its activities as long as it can demonstrate that the funds are used for charitable purposes.

Organizations claiming tax-exempt status under section 501(c)(3) must, within 27 months of their establishment, apply to the IRS for recognition of their exempt status. Section 501(c)(3) sets out those organizations eligible for tax-exempt status. Generally they must be organized and operated exclusively. Public charities whose annual gross receipts are normally less than USD 5 000 (€3 300) are also not required to file for tax exempt status. 242 for religious, charitable, scientific, testing for public safety, literary or educational purposes or to foster national or international amateur sports competition or for the prevention of cruelty to children or animals. Section 170(c) sets out those organizations eligible to receive tax deductible donations. These are listed in IRS Publication 78 (Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue (Code of 1986), which is also available to the public on the IRS website.

Under section 501(c)(3), charities applying for tax-exempt status must complete IRS Form 1023 and relevant associated documents, including various 1023 Schedules that apply to particular forms of charities (e.g., schools, hospitals, houses of worship, etc.). Form 1023 includes identifier and organizational information, such as

- (a) Employer Identification Number (whether or not it has employees);
- (b) the name and address of the organization;

- (c) the form of organization (e.g., corporation, trust, association) and copies of organizing documents (e.g. Articles of Association);
- (d) full description of activities and operational information including standards, criteria or procedures;
- (e) names, addresses, and titles of officers, directors, trustees, etc., and their compensation;
- (f) detailed financial statements showing receipts and expenditures for current year and preceding 3 years; and
- (g) any additional information as required by the IRS.

In addition to being organized as not-for-profit organizations the organizing documents which accompany Form 1023 must include provisions regarding distribution of its income upon dissolution and, in the case of a private foundation, prohibiting any self-dealing (section 508 IRC).

The IRS may need to request additional information from an applicant during consideration of its application. Charities which have one or more subordinates under general supervision or control can seek a “group exemption” covering affiliated subordinates. A charity may have its section 501(c) (3) application denied or its existing tax-exempt status revoked by the IRS if it does not comply with the requirements described above. Since November 2003, a charity will have its exempt status (and deductibility of contributions) suspended under IRC section 501(p) when and while it is designated as a terrorist financing organization under applicable U.S. law (discussed further below), and will subsequently be removed from the list of tax exempt organizations in the IRS’s Publication 78.

Charities receiving tax-exempt status must still file various returns and reports after their accounting period. These include annual information returns (Form 990; Form 990-PF for a private foundation).

Annual information returns are required to include the organization’s gross income for the year, its expenses and disbursements, a balance sheet showing its assets, liabilities, and net worth, the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors, the names and addresses of its foundation managers and “highly compensated employees”. IRS Publication 557 cites examples of such additional information as representative copies of advertising place; copies of publications such as magazines; distributed written material used for expressing views on proposed legislation; and copies of leases, contracts or agreements into which the organization has entered. Other information required to be filed by a tax exempt organization includes tax returns for business unrelated to the charity, employment tax returns, reporting requirements for certain political organizations, information to donors and Form 8300 reports where an amount of USD 10 000 (€6 700) is received that is not a charitable contribution and the compensation and other payments made during the year to each of these people. IRS Publications 1771 and 4221 provide tax exempt organizations and charities with general compliance guidelines for recordkeeping, reporting and disclosure requirements. Exempt organizations are required to keep records that support an item of income or a deduction on a return until the statute of limitations for that return runs out—usually a period of three years. However, in practice,

	<p>exempt organizations that engage in international transactions must maintain records for at least five years – notwithstanding the general three year statute of limitations on assessment and collection of tax imposed by Section 6501(a) – because financial and other records concerning grants, programs, etc., generally apply to more than one tax year. Thus, an organization cannot merely discard financial records for a year once the statute date for that year has expired.</p> <p>Additionally, exempt organizations are required (by Section 6104 of the Code) to maintain, and make available to the public, a copy of their approved application for recognition of exemption (Form 1023), including documents and supporting information submitted with the application. This information must be maintained and made available for far more than five years, as it applies as long as the organization continues to be recognized exempt. To the extent this information changes, the changes are required to be reported on the Form 990, as well as major changes in its purposes or activities.</p>
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Q2: *Has your tax administration identified instances of tax evasion, tax crimes or money laundering involving charities?*

Country	Response
Argentina	There have been no detected suspicious money laundering transactions involving charities. In spite of this, evasion presumptions have been elaborated as a result of the field researches made. (See answers in Q3)
Austria	Since the scope of tax reducing donations is very restricted by the Austrian tax law no experiences on systematic tax evasion and money-laundering have been gained yet.
Belgium	<p>Tax audits, most often performed in response to a registration application directive, sometimes uncover instances of abuse.</p> <p>These instances of abuse mainly involve the issuance of tax receipts in no admissible situations or for funds that are not donations.</p> <p>A few registered organizations were the subject of legal investigations.</p>
Canada	Yes, Canada has identified instances of tax evasion, tax crimes and money laundering involving charities.
Chile	The Chilean tax authority has not detected a relevant behaviour of tax evasion, tax crimes or money laundering involving the abuse of charitable contributions.
Czech Republic	Regarding money laundering Czech FIU (Financial Analytical Unit of the Ministry of Finance of the Czech Republic) yearly identifies around 3 – 5 suspicious transactions concerning subjects which come from non-profit sector. Regarding tax evasion through charities no specific statistics are available. Nevertheless some cases of tax evasion have become famous through the Supreme Administrative Court decision.
Denmark	<p>No (Tax Administration)</p> <p>The Police have had only one case – but the charitable entity was acquitted in court.</p>
Germany	No

France	<p>No cases of money laundering, tax evasion or tax crimes have been detected among non-profit organizations under monitoring operations by the Direction Nationale des Enquêtes Fiscales [National tax investigations directorate].</p> <p>Nonetheless, the tax administration monitors activities of the associations through audits to ensure that the tax system claimed by them is justified, particularly their non-profit status.</p>
Ireland	<p>In our experience instances of tax evasion/avoidance have occurred periodically in an ad hoc way. Occasionally an audit/review would discover an interpretation of the rules of the scheme that differed somewhat to revenue's view and the terms and perhaps the conditions of the tax exemption would not have been strictly adhered to. This activity would not constitute a crime or money laundering therefore the following questions are not relevant.</p>
Italy	<p>Some instances of tax evasion have been identified involving non commercial entities and ONLUS.</p>
Netherlands	<p>We have discovered only one case in which a charity was involved in tax crimes, however, the investigation stopped. Another case was detected from a tax audit which revealed that employees and directors took money from the charity, for personal use. Overall, we have not discovered a lot of the abuse of charities.</p>
Norway	<p>We have no indications on tax fraud related to the deduction of contributions to charities. On the other hand, the system has in some cases revealed crimes related to charities.</p>
Portugal	<p>No situations of tax evasion or money laundering in connection with non-profit entities have been identified. Foundations may on occasion be used for assets acquisition or exempted commercial operations without respect to the underlying conditions, for example, the obligation to allocate part of the company's revenue to social aims.</p>
Spain	<p>We have recently detected that certain people, related with charities have accumulated great amounts of money, that have been sent to tax haven territories, and we are looking now into these to find out the source of that money.</p>
Sweden	<p>The Swedish Tax Agency has identified tax evasion and money laundering involving non-profit organizations of different kinds. But there are no specific suspicions of tax offences or money laundering in the non-profit organizations taking care of charity donations. There are of course frauds e.g. cheating the donors by stealing the donations, but there are very seldom tax implications.</p>
Turkey	<p>No. MASAK (Financial Crimes Investigation Board), the financial intelligence unit of Turkey, is the responsible authority for the prevention of money laundering and terrorist financing. MASAK has not identified any money laundering offence involving charities in Turkey.</p> <p>Turkey has enacted legislation in order to prevent money laundering and terrorist financing. With regard to charities (foundations and associations) the provision in terms of customer due diligence has been included in the Regulation on Measures Regarding Prevention on Laundering of Proceeds of Crime and Financing of Terrorism. According to Article 8 of the regulation, obliged parties (financial institutions and designated non-financial businesses and professions) shall apply customer due diligence when an association or foundation is their customer.</p>

UK	The UK tax authorities have identified instances of tax evasion and tax crimes involving charities. We do not currently have any firm evidence of money laundering although it is suspected.
US	Yes, the US has identified instances of tax evasion, tax crimes and money laundering involving charities.

Q3 : *If your tax administration or other law enforcement authorities in your country have identified instances of the abuse of charities,*

a) *What were the common methods or schemes used?*

Country	Response
Argentina	<p>Due to tax benefits granted to Foundations and Civil Associations, the most frequent manoeuvre is the adoption of these legal structures by some entities, when, in fact, they perform profitable activities which do not pursue common good.</p> <p>From the field researches made, it could be verified that some entities are registered as Foundation or Civil Association in order to receive tax benefits, when, due to their subject matter or main activities, should adopt a more appropriate legal structure. It has been proved that some entities do not fulfil the subject matter established in their by-laws because the kind of activities they perform has changed; they have never had activities at all, or they have never performed the activities established in their by-laws.</p> <p>It is very common the detection of taxpayers in possession of unauthentic or fake invoices that do not respond to actual services delivered or sells; instead they are used to conceal cash withdrawals. In some cases, “real” suppliers who made no transaction with the recipient may issue these documents, or also, a taxpayer or hidden third party may print invoices of non-existent suppliers.</p> <p>Due to their nature, this kind of transactions may lack of irrefutable evidence because these are usually part of an irregular circuit performed by the taxpayer audited or by those who interact with such taxpayer, i.e. suppliers and/ or clients and/ or interested third parties. All registrations and their connection with the receipts, as well as the consequences of the lack of them, may produce the non-documented cash withdrawals.</p> <p>It is worth highlighting that those tax exemptions received by charities are not applied to non-documented cash withdrawals due to they do not imply a charge themselves but a presumption on the tax that a third party benefited from his non-identification, does not document.</p> <p>Frequently, it was noted that there are many entities registered as exempted from the VAT before AFIP, when, actually, they perform taxed activities.</p> <p>- It was noted from the cases audited that it is very common to have salaried employees concealed as volunteer workers of the entity, eluding, in this way, the</p>

	payment of benefits and contributions to the National Social Security System as employer.
Austria	N/A
Belgium	<p>Regarding the issuance of receipts, the most frequent instances of abuse are as follows:</p> <p>the issuance of receipts for donations given to non-registered organizations;</p> <p>the issuance of receipts for donations in kind. Except for donations in the form of works of art to certain museums by individuals, donations in kind are not deductible;</p> <p>the issuance of receipts for disguised in-kind donations (e.g.: goods are so-called "sold" to the registered organization and the seller sells back the product of such so-called "sale" for a tax certificate);</p> <p>the issuance of receipts to persons performing a duty within the beneficiary organization, for funds that in fact originate in collections, restricted share products, donations less than 30 Euros made by other persons or donations made by persons wishing to remain anonymous;</p> <p>the issuance of receipts for payments that are not true donations because the persons making them receive a good or service in return;</p> <p>the issuance of receipts for collective donations (collection products transferred by a person not working for the organization and requesting a receipt in his or her name).</p> <p>Legal investigations involved issues regarding the misappropriation of funds by one or more administrators.</p>
Canada	Canada has identified six commonly used methods or schemes; an organization poses as a registered charitable organization to perpetrate a tax fraud; a registered charity wilfully participates in a tax evasion scheme for the personal benefit of its organisers or directors; a registered charity is involved wilfully in a tax evasion scheme to benefit the organization and the donors, without the assistance of an intermediary; a registered charity is involved wilfully in a tax evasion scheme to benefit the organization and donors with the assistance of an intermediary; a charity is abused unknowingly by a taxpayer or a third party, such as an unscrupulous tax preparers by presenting false charitable receipts; and tax sheltered donations as part of a tax evasion scheme.
Chile	N/A
Czech Republic	In the most famous court case a family established a charitable organization. The members of the family provided donations to this organization in order to reduce their tax base. However this charity did not provide any public service, only resources for the personal benefit of its members (founders). The decision in this case is used as a guideline in cases of the abuse of charities.
Denmark	N/A
France	N/A
Germany	N/A
Ireland	N/A

Italy	<p>The following schemes have been identified :</p> <ul style="list-style-type: none"> • non commercial entities and ONLUS are set up in order to benefit from tax benefits in spite of performing a real business activity; • large refunds for expenditures concealing actual wages and fees is used to circumvent the restriction established under the law to distribute profits or remunerate employees and collaborators in excess of a given amount; • non commercial entities are set up in the form of associations which, in fact, conceal employment contracts; • charitable entities are set up for the purpose of illegally raising public funds or accessing financing by the banking system; • cases of suspected abuse of charitable entities in connection with terrorism financing concerned the partial homonymy of certain foreign affiliates of cultural associations established in Italy with people included in lists of terrorists, and instances in which the bank accounts of the latter associations displayed an anomalous financial activity.
Netherlands	N/A
Norway	We have found cases where criminals have used the names of known charities to collect money from the public. The money is either given cash or paid through banks. The donors expect there to be reported a tax deduction, and the system has no data. This has in some cases revealed the misuse of the charities.
Portugal	N/A
Spain	In the cases detected, we suspect there has been a deviation of the money from his foundational object, to private accounts of his directors.
Sweden	N/A
Turkey	N/A
UK	<p>Our evidence relates to:</p> <p>misuse of charity funds by charities including suspect loans or investments and monies transferring overseas or back to the original donor</p> <p>manipulation of the values of donated assets providing excessive relief to the donor and no benefit to the recipient charity</p> <p>false claims to repayment by charities and people attempting to have charity records created with a view to claiming tax repayments to which they are not entitled</p> <p>Organisations posing as charities to collect donations would be dealt with by the police rather than HMRC or a charity regulator.</p>
US	The U.S has identified the same types of schemes as the Canadians; an organization poses as a registered charity to perpetrate a tax fraud; a registered charity wilfully participates in a tax evasion scheme for the personal benefit of its organizers or directors; a registered charity is involved wilfully in a tax evasion scheme benefiting the organization and the donors, without the assistance of an intermediary; a registered charity is involved wilfully in a tax evasion scheme benefiting the organization and donors with the assistance of an intermediary; a charity abused unknowingly by a taxpayer or a third party, such as unscrupulous tax preparers who present false charitable receipts; and tax sheltered donations as part of a tax evasion

	<p>scheme.</p> <p>In addition to the previously mentioned methods and schemes, the terrorist abuse of the charitable sector needs to be addressed. Terrorist abuse of U.S. charities within the United States is evident from the designation, prosecution and investigation of charitable organizations either based in the U.S. or conducting operations within the U.S. These investigations demonstrate not only the complexity of potential terrorist financing schemes involving the use of charities, but also the importance of communication, cooperation and collaboration across a number of governmental authorities to identify, attack and protect against terrorist abuse of the charitable sector.</p>
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b) *Which sectors, occupational groups, intermediaries, such as tax preparers, were involved?*

Country	Response
Argentina	Entities performing taxed activities, salaried employees concealed as volunteers (See answer to 3a))
Austria	N/A
Belgium	Depending on the type of abuse, parties involved may be: <ul style="list-style-type: none"> - the registered organization itself; - the registered organization in agreement with the non-registered organization; - one administrator, several administrators or a self-employed staff member; - the same people in agreement with the so-called donors.
Canada	In Canada, our analysis revealed that mostly unscrupulous tax return preparers and false charities are involved in the abuse of charities. For instance, for the period of February 27, 2006 to April 10, 2006, a tax preparer helped 1,190 clients to defraud the CRA for an amount of over \$1.06 million (€675 800) with the use of counterfeit charitable donation receipts. Individuals, businesses, tax shelters promoters and professional fundraisers are also involved in the abuse of charities.
Chile	N/A
Czech Republic	No specific statistics available.
Denmark	N/A
France	N/A
Germany	N/A
Ireland	N/A
Italy	Generally tax abuses involve the managers of the non commercial entities or ONLUS, which often include lawyers, tax preparers, doctors and other professionals in sectors depending on the activity of the charitable entity

Netherlands	N/A
Norway	<i>Pure criminals, often found in other fraud cases.</i>
Portugal	N/A
Spain	<p>We have not yet detected tax intermediaries particularly involved in this kind of fraud.</p> <p>The kinds of charities involved are related with things like meditation, exotic religions, and children and third world aid</p>
Sweden	N/A
Turkey	N/A
UK	The abuse extends across individual and corporate donors, tax advisers and charities themselves. Large scale schemes are unusual but not unknown.
US	<p>Similar to the Canadian response, analysis in the U.S. has revealed that unscrupulous tax return preparers and false charities are involved in the abuse of charities. As we have learned with cases involving terrorist abuse, a determination needs to be made whether the charity at issue is complicit in deliberately or knowingly financing or otherwise supporting terrorist activity. We have found complicit organizations that were controlled by terrorist supporters and were established in part to support terrorist organizations or operations.</p> <p>Even with such explicit control and complicity, a terrorist financing investigation is complicated because in most cases these organizations are not exclusively devoted to financing terrorist activity. We have seen cases where the charity also financed legitimate charitable or humanitarian works. This dual functionality advances the terrorist agenda and complicates terrorist financing investigations.</p> <p>This duality can provide a legitimate cover for terrorist financing activity, particularly since terrorist activity often occurs in conflict areas in greatest need of humanitarian or charitable assistance. Legitimate charitable assistance by terrorist-corrupted charities also engenders grass roots support for the terrorist agenda by creating a dependency on terrorist organizations for meeting basic human needs and to support various recruitment or organizational capacity-building efforts. In addition, the financing of some legitimate charitable works allows terrorist-corrupted charities to raise more funds by preying on innocent donors (either individuals or other charitable organizations), particularly in countries far removed from where the humanitarian or charitable assistance is supposedly being delivered. Such donors often have no way of verifying the actual delivery of charitable or humanitarian assistance. And finally, the existence of a charity in a remote location may provide cover for moving personnel and other resources into conflict zones for purposes of advancing a terrorist agenda. Verification of legitimate activity by supposedly charitable operatives is often difficult in such conflict zones.</p> <p>These verification problems are exacerbated by a lack of transparency in the flow of charitable funds. As described above, ongoing investigations of terrorist financing through charities in the U.S. have indicated that charitable funds are often routed through a maze of charitable or other organizations, effectively masking the original source and eventual destination of such funds.</p>

- c) *Please quantify the economic cost or describe the extent of the abuse and summarize the consequences on tax revenues and the integrity of the charitable sector.*

Country	Response
Argentina	No answer
Austria	N/A
Belgium	<p>There is no quantification of tax expenditures incurred by these abuses.</p> <p>As to the impact of donations to the association sector as a whole, abuses detected in audits performed by the tax authority have no impact because professional secrecy prohibits the public disclosure of findings.</p> <p>The organizations involved may be impacted if a review of their file persists. In this case, donors may lose trust and lower donation amounts, or even cease making donations on a temporary or permanent basis.</p> <p>If legal investigations lead to the laying of charges, they are passed on by the media, which will certainly have consequences on the behaviour of existing or potential donors of organizations directly or indirectly involved.</p>
Canada	<p>Canada is currently quantifying the economic costs of the abuse and will share these figures at a future date. The abuse of charities has not yet affected the integrity of the charitable sector; however, there has been some negative publicity on legitimate registered charities. As the negative publicity from court cases involving suspicious and false charity receipts emerges, there is more pressure by the legitimate charities on the CRA to ensure that there is a level playing field for all charities, especially by those charities whose names may have been tarnished by counterfeiters.</p>
Chile	N/A
Czech Republic	<p>Because of the fact, that no specific statistics about the abuse of charities are available, it is not possible to quantify the impact of eventual cases of abuse. Due to the size of non-profit sector, eventual cases of abuse involving charities do not represent significantly higher risk for tax revenues than tax evasion in other sectors of economy.</p>
Denmark	N/A
France	N/A
Germany	N/A
Ireland	N/A
Italy	<p>At present, only aggregate data on tax evasion are available; it is, therefore, impossible to extract data concerning specifically non commercial entities and ONLUS.</p>
Netherlands	N/A
Norway	Not available at this moment.
Portugal	N/A
Spain	For the time being, we have detected €40 million in off shore accounts.

	In tax revenues, the consequences can be of about €15 million, but if the source of money is wrong destination of donations, it may also have been a fake for the donors.
Sweden	N/A
Turkey	N/A
UK	We cannot accurately quantify the total economic cost but the schemes relating to direct tax that we have found and challenged have been in the £tens of millions. In the case of indirect taxes the tax at stake is of the same order. There has been some negative publicity but the integrity of the charity sector has not yet been seriously damaged.
US	For the U.S., we do not have in place a mechanism to capture the overall economic costs associated with the abuse of the charitable sector but realize based upon related investigations that there are consequences on tax revenues and overall integrity of the charitable sector. In the area of terrorist financing, the U.S. Government, is continuing to combat abuse of the charitable sector by: (i) administratively sanctioning terrorist-related charities and charitable officials through terrorist financing designations; (ii) contributing financial information and investigative resources and expertise to advance criminal investigations and prosecutions of charities and charitable officials providing material support for designated terrorist organizations or activities; (iii) facilitating international action to address these abuses; and (iv) conducting comprehensive outreach to the charitable sector to raise awareness of terrorist exploitation and the steps charities can take protect themselves from such abuse.

d) *How did you detect these cases involving the abuse of charities?*

Country	Response
Argentina	Field researches made.
Austria	N/A
Belgium	<p>Generally speaking, these abuse cases are detected during an in-depth audit of an organization's bookkeeping, performed during a registration application or registration renewal application.</p> <p>If an organization has already been certified in the past, the competent tax department also verifies if it has followed the directives with respect to tax receipt preparation and issuance.</p> <p>Abuse cases may also be detected by the tax departments when verifying the donors' tax status.</p> <p>The tax authority may also be aware of abuse cases when, after opening a legal investigation, it receives authorization to consult legal records.</p>
Canada	In Canada, there is no matching system for charity donations, however, the CRA has identified several key characteristics which facilitate the detection of possible the abuse of charities; for instance : taxpayers who report low to moderate income and

	who have; an abrupt change in their donation pattern; no prior history of donation; a high ratio of donation versus their net income; donations to multiple charitable causes with no apparent connection and; other deductions such as childcare expenses, business losses and employment expenses.
Chile	N/A
Czech Republic	<p>Cases of tax evasion involving charities are detected through the conventional means.</p> <p>Concerning cases solved by FIU : Every single case was reported by means of report of suspicious transactions which comes from :</p> <ul style="list-style-type: none"> - endorser/alienee of commercial instruments, - financial or credit institutions (remittances from/to accounts of natural persons, remittances to foreign countries, cash withdrawals; alleged connection with financing of political parties).
Denmark	N/A
Germany	N/A
France	N/A
Ireland	N/A
Italy	<p>In order to detect tax abuses the same tools are generally used as for the other economic agents.</p> <p>Regarding ONLUS, the "Nucleo Speciale Entrate" (Special Unit for Tax Revenue) of the Guardia di Finanza (Italy's Finance Police) has in place risk criteria for tax purposes which are related to the reiteration of tax abuses or crimes or to the failure to submit a tax return.</p> <p>Red flags applied by the Revenue Agency include acquisitions of goods or services for an amount exceeding their normal value, and wages and salaries exceeding 20% of the standards established in under collective agreements.</p>
Netherlands	N/A
Norway	Through intelligence.
Portugal	<p>The control of income tax deductions/tax credit, due to donations made to NPO's, includes data matching. This data matching process is made using information from tax returns/declarations submitted by donors and by beneficiaries NPO's:</p> <ul style="list-style-type: none"> - Those who make donations and obtain tax deduction/tax credit must identify the amounts as well as beneficiaries of donations; - The beneficiaries of those donations (NPO's) must identify the donors as well as the amounts.
Spain	By the analysis of flows of currencies between Spain and others countries and information received from tax haven territories on the course of criminal investigations carried out by judicial authorities.
Sweden	N/A

Turkey	<p>These techniques may be classified in five main headings:</p> <ul style="list-style-type: none"> • Developing and regulating policies • Coordination • Collecting, analysing and evaluating data • Supervision of obligations • Examination
UK	<p>Our HMRC Charities tax team issues and reviews charity tax returns and accounts and we have a repayment audit team. These are the people who identify most of the abuse by charities by identifying patterns and unusual items. Abuse of the donor reliefs is discovered by local compliance officers who deal with the donors' tax returns and has also been identified, in the case of large donations, by the repayment team in HMRC Charities. HMRC also has a tax avoidance scheme declaration process.</p>
US	<p>U.S. efforts to identify and attack terrorist financing in the charitable sector rely on a comprehensive approach to enlist and coordinate resources and authorities from across the government. As in our larger counter-terrorist financing efforts, we are continually challenged to identify, develop and direct all potential sources of information to detect potential cases of terrorist activity and abuse. Additionally, we are constantly evaluating and coordinating the various authorities that we have to take action against those terrorist financing threats that we identify in the sector. These authorities include targeted administrative oversight and examination, criminal investigation and prosecution, various intelligence-gathering capabilities, and designation pursuant to administrative economic sanction powers.</p> <p>Effective management and application of these authorities requires constant inter-agency communication, cooperation and collaboration to ensure that our actions achieve the greatest effect in eliminating threats while minimizing burdens on legitimate charitable activity.</p>

e) *How did you investigate these cases involving the abuse of charities?*

Country	Response
Argentina	No answer
Austria	N/A
Belgium	<p>Organizations requesting registration or registration renewal must, in writing, agree to allow tax authority officials to audit their accounting entries each time it is deemed suitable.</p> <p>Administrative directives stipulate that the audit must be performed at the organization's headquarter.</p> <p>An audit is performed by the tax department to whom the organization reports, that is, the same department to which it is required to submit its CIT return.</p>

	<p>If necessary, the audit is entrusted to an auditing centre.</p> <p>Organizations that were investigated as a result of the judicial power initiative were then audited by the Special Tax Inspectorate (ISI) Administration.</p>
Canada	<p>In Canada, the CRA uses traditional investigative methods including the use of production orders and search warrants to investigate cases of the abuse of charities. Also, some of our CRA investigations are conducted jointly with other law enforcement agencies, such as the Royal Canadian Mounted Police who have other investigative tools which they can employ.</p>
Chile	N/A
Czech Republic	<p>Cases of tax evasion involving charities are investigated through the conventional means.</p> <p>Concerning cases solved by FIU:</p> <ul style="list-style-type: none"> - conduct of independent investigation of transactions based on Act No. 253/2008 Coll. (the new AML/CFT Act).
Denmark	N/A
France	N/A
Germany	N/A
Ireland	N/A
Italy	<p>Tax auditors of the Revenue Agency and the Units of the Guardia di Finanza in charge of tax policing both carry out investigation activities.</p> <p>The financial analysis is carried out by the Unità di Informazione Finanziaria (UIF) – the Financial Intelligence Unit of the Bank of Italy.</p>
Netherlands	N/A
Norway	Police investigations with assistance from the tax crime unit.
Portugal	N/A
Spain	<p>By requiring banks for information about the source of the entry of money, and following the trail.</p> <p>Because of the fact that the banks involved in these kinds of investigations are foreigner, we need the help of the authority of the respective country, and that requires a grand amount of collaboration between countries.</p>
Sweden	N/A
Turkey	N/A
UK	<p>HMRC uses traditional investigative methods including records examination and production orders. The Charities tax team works closely with other branches of HMRC including the criminal investigation section and also with the charity regulators.</p>
US	<p>The Internal Revenue Service (IRS) has exclusive access to critical tax-related information concerning charities and donors and unique expertise in analyzing this information. Through joint task forces, this expertise and access can be coupled with the investigative expertise and experience of other law enforcement agencies and financial crime experts.</p>

	<p>Within the IRS itself, the civil examiners in the Tax Exempt and Government Entities (TEGE) section have a unique familiarity with the charitable sector and the reporting, recordkeeping and disclosure obligations of the sector under the federal income tax laws. This experience is critical to the criminal investigative efforts of IRS Criminal Investigation (CI). The IRS has established a number of mechanisms to ensure that TEGE and CI communicate and work together on potential cases involving the abuse of charities. Regarding terrorist financing, these mechanisms include: cross-training initiatives and programs whereby TEGE examiners and CI investigators learn about each other's operations, resources and needs; staffing TEGE examiners on task forces dedicated to investigating terrorist financing leads in the charitable sector; and sharing red flags, typologies and information from CI to TEGE to assist in conducting examinations on charities particularly vulnerable to terrorist abuse.</p> <p>In addition, the Terrorist Financing Unit of the Counterterrorism Section of the Department of Justice (DOJ) is leading a multi-agency effort to investigate and prosecute charitable entities that are involved in providing support for terrorists. Working with agents from the IRS, prosecutors are reviewing government filings of entities recognized under § 501(c) (3) of the Internal Revenue Code, and comparing these disclosures with information developed from other governmental agencies. To the extent there is a disparity, prosecutors initiate criminal proceedings which charge appropriate persons with tax fraud, false statement and terrorist financing offenses.</p>
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f) What measures have been implemented to reduce the opportunity of the abuse of charities?

Country	Response
Argentina	No answer
Austria	N/A
Belgium	<p>In an April 2003 Belgian report relating to the audit of corporations not subject to the corporate tax, the Belgian Court of Auditors made various recommendations to improve this audit.</p> <p>This report led to a measure that will come into force on September 1st, 2008.</p> <p>Prior to this date, there were only a few tax departments specializing in CIT audits. They were located in the country's large urban centres. Outside these major centres, audits were performed by departments specializing in audits for individual income tax returns and, where required, charged with auditing those liable for CIT.</p> <p>Since then, a specialized CIT audit function has been put in place in each regional branch of the Tax Administration with the mandate of auditing those liable for CIT from the regional branch.</p>
Canada	<p>The Canadian Tax Authority (CRA) conducted a pilot project prior to the last filing tax season (period of February 4, 2008 to March 28, 2008). The mandate of these cross-functional teams consisted of 1) working collaboratively in identifying suspicious activities while processing the 2007 T1 Income Tax and Benefit Returns (pre-assessment risk analysis) 2) validating charitable donation claims (letters sent to</p>

	<p>taxpayers requesting their receipts and proofs of payment); 3) reacting to identified suspicious activity in a more timely manner; and 4) conducting a more in-depth risk assessment of suspicious claims. The Tax Authority for Canada is able to intercept the returns prior to their assessment and therefore avoided the subsequent use of resources to correct the situation and to recover the funds. The CRA Directorate responsible of administering tax law for charities has enhanced the compliance aspect of their administration of those tax laws through the use of risk assessment for audit and verification purposes.</p>
Chile	<p>In August 6, 2003 Law N° 19.885 was enacted, in order to establish tax benefits for the taxpayers of the First Category Tax, who effect donations to institutions that provide direct services to disabled persons or with scanty resources and of the fund of social support and to entities of political character.</p> <p>Within the mentioned law - in Article 10 - was included a regulation that obliges to consolidate all the donations, for the determination of the tax benefits and also excludes the possibility that between donor and donee could exist “remunerated donations”. This last measure was enacted to prevent figures of abuse that have been detected principally in the university sector, where occurred a case in which a donation by a company to a university was directly related with the granting of a scholarship for that university to a person linked to the company.</p> <p>Also, Law N° 19.885 added a number 24 to Article 97 of the Tax Code in order to prevent (and punish) the use of charities and donations to commit tax evasion.</p> <p>Office of non for profit Taxpayers, at the Large Taxpayers Division of the Chilean Tax Administration</p> <p>The tax control of charities, including tax compliance programs, are carried out by a special office, at the Large Taxpayers Division of the Chilean Tax Administration, which must prevent the abuse of charities and audit these entities. It is planned, that the mentioned office will be given additional resources and attributions as a part of a medium term program (one to three years) that will provide directions and strategies for other units of the tax administration.</p>
Czech Republic	<p>Within the competence of tax authorities no specific measures have been implemented. Nevertheless new legislation, which should assure more transparency in non-profit sector, is being discussed. Also new legislation on money laundering will provide additional measures regarding non-profit sector.</p>
Denmark	N/A
France	N/A
Germany	N/A
Ireland	N/A
Italy	<p>Some examples of the measures in place to counter abuse in this field are as follows :</p> <ol style="list-style-type: none"> i. the Revenue Agency has entered protocols of understanding with bodies operating in sectors related to non commercial entities in order to cross-check the information available (e.g. SIAE “Società Italiana Autori ed Editori”- Central agency for the collection of copyright duties); ii. in 2007, the” Nucleo Speciale Entrate” of the Guardia di Finanza launched a project called “Artemide” aimed at fighting tax frauds by ONLUS active in distinctive local settings which unduly benefited from tax benefits;

	<p>iii. the limitation of the use of cash and bearer instruments provided for by domestic AML legislation (art. 49 of Legislative Decree 231/2007) applies also to charitable entities;</p> <p>iv. The Bank of Italy mandates financial intermediaries to examine “carefully and promptly” every contractual relationship and operation which can be connected, directly or indirectly, with organizations that, while declaring that they carry out non profit, charitable or socially useful activities, are unable to provide supporting evidence</p>
Netherlands	N/A
Norway	The limitation on deductions combined with the registration of the charities in a centralized database.
Portugal	N/A
Spain	When there was determined the true nature of the enrichment, we will be able to determine exactly what measures there will be necessary to minimized the problem.
Sweden	N/A
Turkey	In order to combat laundering of the proceeds of crime in a more effective way and prevent use of the financial system by criminals, certain obligations have been introduced for financial institutions and other professional organisations in both the international area and in domestic law. The information about the persons reporting suspicious transactions may not be given to third parties, institutions and organisations other than courts even if a provision exists in special laws. Necessary measures shall be taken by the courts in order to keep secret the identities of the persons and to ensure their security.
UK	Where abuse is identified in specific areas we introduce legislation to stop the activity. Our compliance efforts are risk based and we are making better use of publicly available data on charities to target our compliance efforts.
US	<p>The U.S. has a comprehensive system of charitable oversight that has been implemented to help reduce the opportunity of abuse in the charitable sector. In the U.S., the transparency of the charitable sector is managed by a three-level web of oversight consisting of:</p> <ul style="list-style-type: none"> (i) the federal government; (ii) state authorities; and (iii) the private sector. <p>In addition, the U.S. has implemented a risk-based targeting strategy which relies upon actionable intelligence or information to help reduce the opportunity of abuse. As in the case of terrorist financing, this intelligence or information becomes a lead which is channelled to those task forces and authorities that can analyze and act on the information. We have developed red flag indicators based upon case typologies and are promoting awareness of terrorist financing risks to improve the abilities of the sector and the general public to report relevant information. The information-sharing and investigational capabilities in combating terrorist the abuse of charities in the U.S. critically depend upon communication, coordination and collaboration mechanisms that the U.S. has constructed to combat terrorist financing generally.</p>

g) *What were the results?*

Country	Response
Argentina	No answer
Austria	N/A
Belgium	Along with the other measures, this measure should make audits conducted on organizations liable for CIT and on registered organizations or organizations applying for registration, more consistent and more efficient
Canada	Canada is currently quantifying the results and will share these figures at a future date.
Chile	The tax audits that have been executed during the last years, show low level of tax evasion related to charities.
Czech Republic	N/A
Denmark	N/A
France	N/A
Germany	N/A
Ireland	N/A
Italy	Though no official estimates are available as yet, the investigation activity concerning non commercial entities and ONLUS has increased over the past few years. For instance, in 2007, the Guardia di Finanza has assessed in this sector a tax evasion in direct taxation for an amount almost equal to the total amount assessed over the preceding three-year period (2003 to 2006).
Netherlands	
Norway	This is not considered to be a problem at this moment. Further analysis will be done.
Portugal	N/A
Spain	These investigations are now beginning, and we cannot offer any result yet.
Sweden	N/A
Turkey	N/A
UK	<p>Some of our anti-avoidance legislation is too new for us to quantify any effect whilst other sections have been totally successful in stopping the abuse they were aimed at. Our compliance efforts with charities produced recoveries of around £15 million in the 2007 financial year.</p> <p>We cannot quantify recoveries from donors related to abuse of charity reliefs although cases related to the gifts of assets will yield around £75 million if we are successful.</p> <p>HMRC have also been successful in prosecuting individuals who have misused charities in order to evade taxes and make false repayment claims. Sentences ranged between 2 – 4 years and confiscation proceeding have been used in order to recover the proceeds of the criminal conduct.</p>

US	The large and diverse nature of the U.S. charitable sector, coupled with the comprehensive oversight and investigative approach adopted by the U.S. presents a number of challenges in quantifying results relative to the abuse of the charitable sector. One way which the U.S. can quantify its results would be in the number of U.S. designations, investigations and ultimately in the number of prosecutions that are related to the charitable sector.
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ANNEX 2 – CASE STUDIES

Case Study #1: Registered charities selling donation receipts to tax return preparers for a commission

Charity “A” works closely with tax return preparer “B” during the tax season providing the tax return preparer with a blank receipt book containing 50 original and duplicate receipts with all receipts pre-signed. The receipts are for one amount only. Tax return preparer “B” gives \$5 000 (€3 187) cash to the officer of Charity “A” on the proviso that at the end of the tax season, the books containing the duplicate copies are returned to Charity “A”. This is so that Charity “A” can show the CRA that it has all its receipt books. Since none of these receipts match the bank records, Charity “A” alleges that it has poor bookkeeping.

It is quite common for taxpayers to pay 10% of the face value of the receipt to the tax return preparer. For instance, a taxpayer would pay \$1 000 (€637) for a \$10 000 (€6 370) donation. Once the receipt book is returned to Charity “A”, the value of the receipts issued are tallied and Charity “A” collects its share less the commission paid to tax return preparer “B” and any cash deposits used to buy the original receipts. At the end of tax season, tax return preparer “B” returns the receipt book to Charity “A” which indicates “gross donation amounts \$500 000 (€318 775).”

The split between the officer of Charity “A” and tax return preparer “B” is as follows:

- 10% of the face value \$500 000 (€318 775) = \$50 000 (€31 877)
- \$35 000 / €22 314 (70% of \$50 000/ €31 877) less the \$5 000 / €3 187 “deposit” goes to the officer of Charity “A”
- \$15 000 (€9 563) is retained by the tax return preparer “B”

The government is out considerable sums for excessive refunds due to the inflated donation deductions (estimated at 40% of each \$1 of false donation). The government would be paying \$200 000 (€127510) in unwarranted refunds. It is suspected that very little, if any, of the funds collected by Charity “A” find their way to the intended charitable purpose. This appears to be the most prevalent scheme being used.

Case Study #2: Tax return preparers and/or registered charities that engage in issuing donation receipts for cash plus donations of items of nebulous value.

Charity “B” works closely with the tax return preparers during the tax season providing the tax return preparers with blank pre-numbered and pre-signed official receipt books. These books have original and duplicate copies of official receipts. These receipts are different than those used in *Case Study #1*, in that not a single amount is used. The receipt may appear to show a breakdown of the total donation as follows:

- Regular offerings
- Mission services
- Outreach Services
- Donations in kind

Again, the total donation is a contrived amount which appears to give it a legitimate look to the receipt. Again, the total amount paid by the taxpayer is 10% of the “total donation”. The figures into each area are fabrications. When the CRA asks the taxpayer to respond to what was donated, a signed letter comes from the charity indicating that the figure from the donations in kind has been appraised by the charity and is comprised as follows:

- 10 power tools
- 5 doors
- 30 sweaters
- Hardware for building constructions, etc.

In this case, the CRA investigation revealed that the person associated with Charity “B” provides instructions to the tax return preparer on how to respond and mislead CRA officials. The split on the commissions is the same as found in *Case Study #1* which is 70% to Charity “B” and 30% to the tax return preparers. The negative effect on government revenue through unwarranted refunds is estimated at 40% of each \$1 of false donations.

Case Study #3: Tax return preparer that counterfeit the receipts of legitimate charities and “traffic” in counterfeit charity receipts

The Royal Canadian Mounted Police and the CRA conducted a 9-month joint investigation and have charged tax return preparer “C” with one count of fraud over \$5 000 (€3 187) and one count of uttering forged documents.

The tax return preparer “C” pleaded guilty to producing 1 190 returns that were phony. The tax return preparer “C” admitted to a single count of fraud for masterminding her second tax evasion scheme in a generation. The tax returns featured almost \$3.8 million (€2.4 million) in bogus charitable donation receipts from 39 unsuspecting Roman Catholic churches. The archdiocese co-operated with the police in confirming that the donation receipts did not come from their parishes. The bogus receipts for church donations resulted in the tax evasion of about \$1.06 million (€675 804) to the federal government. Evidence indicated that the tax return preparer “C” collected \$824 850 (€525 884) over a three-month period, primarily in "donations" that she would seek from clients after charging a small processing fee for her work. The same tax return preparer “C” went to jail for running a similar operation during the 1990s. Subsequently, the CRA reassessed the returns of all her clients.

Case Study #4: Tax return preparer who steal identities of clients to file tax returns which contain false deductions including charitable donations

In May 2008, tax return preparer “D” pleaded guilty to 19 counts of tax evasion under the *Income Tax Act* and 1 count under the *Criminal Code of Canada*. The Judge handed down a 100% fine of \$32 093 (€20460) to tax return preparer “D” for obtaining a refund in an amount that was greater than the amount to which another person was entitled to by making, or assenting to or acquiescing in the making of, a false or deceptive entry in a record or book of account of the other person, on a return filed under the *Income Tax Act*, on behalf of numerous taxpayers for the 2005 taxation year. The Judge finally fined tax return preparer “D” to 16 months of house arrest for committing an indictable offence under the *Criminal Code of Canada* by deceit, falsehood or other fraudulent means of a sum of money exceeding \$5 000 (€3 187).

The file began when employees working for tax return preparer “D” complained to the local police while the CRA received few informants’ leads. The complaints were against tax return preparer “D” and a cash exchange business operating under “Cash-E”. The tax return preparer “D” was also one of the officers of “Cash-E”. The complaints were that the e-filed income tax returns included inflated fraudulent refunds. Fictitious non-refundable tax credits and other deductions were falsely used to increase the income tax refunds.

Once the complaints were received, a joint force operation started between the Enforcement Division of the CRA and the Commercial Crime Section of the Royal Canadian Mounted Police. The outcomes of the investigation were that the initial tax returns were adjusted after the client left the premise of tax return preparer “D” who added false charitable donations. These taxpayers or clients of tax return preparer “D” were not aware that their returns were subsequently adjusted.

Since the returns were e-filed and discounted (direct bank deposit), the CRA issued the tax refunds directly to the bank account of tax return preparer “D”. Meanwhile, tax return preparer “D” issued the first refund cheques to her clients but kept the second cheques issued by the CRA, which included the fraudulent inflated refunds. Due to the relationship between tax return preparer “D” and the cash exchange business “Cash-E”, they were able to manipulate the information, forge the clients’ signature and cash the second cheques without raising any suspicions. Addresses were also changed to random addresses and consequently, the taxpayers never received their notices of assessment. The taxpayers were victims of identity thief.

In addition to the criminal fines, the CRA re-assessed over 1 500 tax returns for taxation years 2004 and 2005.

Case Study #5: Tax sheltered donations as part of a tax evasion scheme.

Charity “A” was registered to relieve poverty by providing food and other basic supplies to persons of low income, by establishing, operating and maintaining shelters for the homeless, and by providing counselling and other similar programs to relieve poverty.

In reality, a very few of the charity’s activities fell within its charitable mandate.

Through tax shelter arrangements, Charity “A” received a variety of forms of property, and in return, issued a substantial amount of receipts for this property. This included extraordinarily large volumes of plastic food containers, food, clothing and software license courseware purportedly for use in the charity’s programs. The charity’s involvement in these arrangements was “we will accept and receipt anything and everything” philosophy and resulted in Charity “A” issuing over \$847 million (€540 million) in official donation receipts and paying over \$70 million (€44 million) in fundraising fee to the tax shelter promoter. This, for example, has resulted in an accumulation of approximately \$139 million (€88 million) in inventory, consisting largely of courseware.

Even though Charity “A” was established to relieve poverty, Charity “A” began allegedly establishing computer learning centres. Charity “A” attempted to find some form of use for the millions of dollars in courseware it has accepted and issued tax receipts for. Much of the direction and activity of Charity “A” appeared to be driven not by a view to its charitable purposes, but rather to facilitate the forms of property being offered by the tax shelter arrangements. Further, Charity “A” made little, if any, attempt to verify the value of the donations represented by the promoters.

Tax Shelter/Scheme Descriptions:

Donations of certain plastic food containers were received from donors who had purchased the plastic food containers from Company “B”. These containers had been purchased by Company “B” few years prior in one bulk purchase. The executive director of Charity “A” issued official donation receipts based on the fair market value as identified by research conducted by Company “C” regarding the selling price of the plastic containers. The value indicated in the report of Company “C” was for new containers at the manufacturer's suggested retail price and as such, the donation receipts were issued for approximately 5.5 times the donors' purchase price.

Donations of single-use courseware license packages were received from donors who had received the courseware packages as a “free gift” from a trust. Donors initially made a cash gift to another participating registered charity, Charity “D” applied to become a beneficiary of the trust and as a beneficiary, received courseware packages allegedly valued at three to six times the amount of the donor’s cash gift. Charity “A” issued official donation receipts based on the alleged value of the courseware as determined by a valuator based on the retail sales price of each software application contained within the courseware package. Charity “D” transferred 80% of the cash donations received from donors to Charity “A” and Charity “A” paid the tax shelter promoter 90% of the cash donations received from Charity “D”.

Charity “A” reported receiving \$797 million (€508 million) in 2005 and 2006 in cash and property from its participation in tax shelters, however, the charity failed to maintain proper books and records. For instance, Charity “A” failed to provide documentation to support the issuance of donation receipts totalling \$284 million (€181 million) and for disbursements totalling \$270 million (€172 million).

In 2007, the CRA suspended the ability of Charity “A” to issue donation receipts. Charity “A” filed an application to postpone the suspension, but in 2008 the Tax Court of Canada dismissed the application.

Case study #6: charity passes funds to organization engaged in terrorism.¹⁴

Foundation “A” acted as a charity, while its primary purpose was to support Terrorist Group “H”. In 2000, Foundation “A” raised \$13 million (€8.8 million). The US Government shut down four of its offices in the US in 2001.

Foundation “A” supported the activities of Terrorist Group “H” through direct fund transfers to its offices in the West Bank and Gaza that were affiliated with the group and transfers of funds to Islamic charity committees and other charitable organizations that were part of the group or controlled by group members.

Foundation “A” was established in California in 1989 as a tax-exempt charity, not a religious organization. It relocated to Richardson, Texas. It had offices in California, New Jersey, and Illinois, and individual representatives scattered throughout the United States, the West Bank, and Gaza.

Person “B”, a political leader of Terrorist Group “H”, provided substantial funds to Foundation “A”. In 1994, Person “B” (who was named a Specially Designated Terrorist by the US Department of the Treasury in 1995) designated Foundation “A” as the primary fund-raising entity for Terrorist Group “H” in the United States. In July 2004, the US charged Foundation “A” and seven of its officers with criminally conspiring to provide millions of dollars to Terrorist Group “H” and the families of suicide bombers. The criminal charges included conspiring to provide and providing material support to a foreign terrorist organization, tax evasion and money laundering.

¹⁴ FATF, Working Group on Terrorist Financing and Money Laundering, Follow-up on Typologies on Terrorist Financing, October 14, 2008.

Case Study #7: Use of charity to launder tax evasion

A family in the North England owned a number of businesses. The family members were all very closely knit and each member of the family played a significant role in the running of the businesses.

The businesses whilst successful were also being used for criminal purposes ranging from the suppression of stock and takings to evade taxes, as well as the payment of undeclared tax free wages to employees, all working off record.

The family, very early on in the frauds, also established a charity that was said to operate for the benefit of the wider Islamic community. The charity was controlled by the family members, as trustees and they submitted accounts to the UK Charity Commissioners showing receipts of less than £10 000. The family members however were using the Charity as a cover to launder the proceeds of their tax evasion.

HMRC were alerted through intelligence that the charity was being used by the family for uncharitable purposes i.e. to fund their own expensive lifestyles. The Investigation into the various bank accounts in the charity name and managed by the family members showed that in excess of £2.5 million had been deposited. All funded through undisclosed income of the businesses directly diverted in the banks. Several of the bank accounts were held offshore in the charity name.

The cash diversion had been effected simply by the business operating two or more cash tills within the business whilst only declaring the income from one. A search and seizure operation was mounted by investigators from HMRC and significant records were seized leading to the offshore structures. The search also established that some businesses had been franchised and the franchisees were operating the same diversion scheme – suspected to have been introduced to them by the franchisors (the family).

The Patriarch was aged and unfit to charge. However the other family members were each charged with cheating the public revenue and the franchisees were also charged with conspiracy to cheat the public revenue. A further person who assisted with the preparation of the books was also charged. A confiscation of some £5 million plus £500 000 in costs has been agreed in respect of the family. The others prosecuted are also subject to a confiscation in excess of £1 million.