



DEVELOPING THE GLOBAL GUIDE TO WHAT COUNTS

Expanding the Boundaries of Corporate Giving

Differing country standards create obstacles to consistent global reporting. This report details the research results to create a framework which overcomes those obstacles, empowering the business community to capture and compare contributions.



Deloitte.

CECP & DELOITTE

To create a global measurement framework, CECP leveraged ten years of expertise with the Corporate Giving Standard, but also required additional proficiencies. Deloitte member firms' invaluable experience in designing global business impact standards, as well as the Deloitte network's extensive consulting, audit, and tax knowledge, made it an ideal consultant for researching and synthesizing the applicable tax codes, regulations, and reporting practices of firms around the world. Deloitte member firms were engaged by CECP for the Global Corporate Giving Initiative on a pro bono basis. Barry Salzberg, CEO of Deloitte Touche Tohmatsu Limited, served as a member of CECP's board of directors from 2009-2012.

This report is the companion piece to *The Global Guide to What Counts*, released in June 2012 and available at CorporatePhilanthropy.org/Global.

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Preface

Communities around the world continue to face a growing number of increasingly complex challenges on a daily basis. And while the business community is actively working to help address these challenges, we need a common language: a way to identify and clarify the cross-industry, cross-border efforts currently under way to support communities.

To encourage the expansion of international business engaging with society, the corporate giving field must unite to develop and leverage better methods to guide and measure social investment strategies. The questions remain: Can the business community speak as a single voice about where the investment is going, what programs and issues are being funded, and which programs are most effective?

To answer these questions, we need a shared understanding of what constitutes charitable giving and charitable organizations. The mission of the project, and the subject of this report, is to provide more robust answers to corporations' important questions about measurement.

The Committee Encouraging Corporate Philanthropy (CECP) in collaboration with Deloitte Touche Tohmatsu Limited (DTTL) and the assistance of its member firms (Deloitte) brings together the decade of measurement expertise of CECP, as one of the strongest international forums of CEOs with a sole focus on corporate social engagement, along with the tax and consulting knowledge and experience of the Deloitte global network.

This report establishes a valuation guide, which will serve as an internationally relevant measurement framework by which companies can track, report, and benchmark their multinational cash and non-cash giving. While the multiyear project to establish the valuation guidance is coming to an end, it's the starting point for a larger global measurement effort as the corporate community begins implementing this guidance.

This work will influence important changes in the way the corporate social investment field currently measures the commitments of the largest companies in the world. The other benefits expected from this project include increased transparency, sharing of best practices, and an aggregation of total giving across companies to better illuminate giving trends of the business community.

The results are yours. Throughout the project, we listened to the needs of corporations engaged in solving society's most pressing issues. This report presents our current thinking and progress to date. The measurement tools produced by this initiative will be designed for practical use, and we continue to be open to your input and feedback on how to make this inclusive effort representative of your company, your industry, and the field as a whole. We thank you for your engagement and invite you to join us in the next phases of work.

Sincerely,



Barry Salzberg



Doug Conant



BARRY SALZBERG
Chief Executive Officer
Deloitte Touche Tohmatsu Limited



DOUG CONANT
Chairman
Committee Encouraging
Corporate Philanthropy

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“CECP’s global efforts to advance transparency around reporting and benchmarking of corporate social investment are crucial to mounting an effective response to the challenges facing business and society. The Global Compact strongly supports CECP’s work, which is fully aligned with our universal principles.”

GEORG KELL
EXECUTIVE DIRECTOR
UN GLOBAL COMPACT

REPORT OVERVIEW

Given the absence of international standards for defining and measuring charitable giving, CECP and Deloitte set out to build the foundation required to establish one with authority.

The results include **three key criteria by which global giving recipients are defined**. Designed for simple, practical application by all internationally philanthropic companies, these criteria should prove vital to improving and harnessing your giving-measurement processes.

The Global Guide criteria were originally presented to the CECP community in June 2012, in the companion piece to this report: *The Global Guide to What Counts* (see page 7). For readers who prefer to see the results without the supporting research, the *Global Guide* is a succinct summary. For those interested in the detailed international findings that determined those criteria, the present report tells the full story of how the criteria were established: the research undertaken, the complexity traversed, and the lessons learned.

Framed by sections that seek to describe the “bigger picture,” this report’s findings detail many of the exceptions and nuances that make country regulations so difficult to standardize. Introductory text highlights gaps in the current system and presents the research methodology. Some findings informed the criteria directly; others provided illuminating context. At the beginning of each finding that directly informed the establishment of one or more criteria, the reader will see an infographic.

In conclusion, the report predicts the benefits of the *Global Guide*’s implementation, namely allowing us to capture and compare—in a truly meaningful way—the data on global giving.

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企業の社会貢献活動

企业慈善

Filantropia Corporativa

Corporate Giving

Filantropia Aziendale

기업기부

Mécénat d’Entreprise

عطاء الشركات

Investimento Social Corporativo

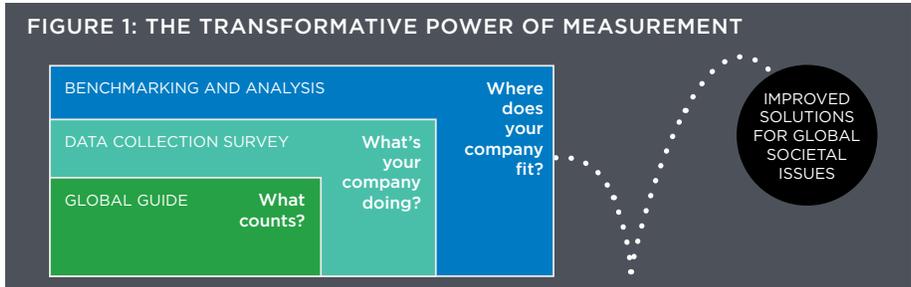
कॉर्पोरेट परोपकार

Project Motivation: Filling a Gap

Corporate contributions to social causes are growing all the time. More than ever, companies require a strategic measurement framework that will enable them to report clearly on these contributions' magnitude and significance.

Global measurement has three components: 1) consensus-driven valuation guidance (What counts?), 2) global corporate survey data collection (What's your company doing?), and 3) global benchmarking and analysis (Where does your company fit?).

Inherently, tax laws are developed domestically and reflect the local conditions of civil society, or the "third sector." This is a problem for multinational firms that endeavor to measure and plan their global giving. The *Global Guide* serves as a basis for international valuation guidance where the necessary standards for such measurement previously did not exist.



DIVERGENT PRACTICES

Achieving a complete understanding of all companies' internal procedures for tracking international giving is beyond the scope of this project. However, recent research has unearthed two general, divergent practices among companies engaged in international giving.

One is to use one country's determination of a qualified recipient and to give only to that type of recipient, or perhaps also to its international equivalent. The second is to seek to incorporate country-specific policies for every jurisdiction in which the company wishes to be philanthropic. This second method

may allow a company to expand more broadly, geographically speaking, but it also requires a commitment to expend internal knowledge and other resources on understanding a wide range of domestic policies and ensuring that the company's own practices remain current and adaptable. As seen in Figure 2, 32% of companies indicated followed the first practice, whereas 29% followed the second. The poll also indicated that a significant number of companies (20%) have not yet determined which of these practices they may apply.

PROBLEMATIC BENCHMARKING

Companies aspire to baseline their programs in order to measure and analyze their performance based on comparison data from peer firms. Benchmarking is an important method, among others, for determining success and opportunities for realignment. Without a common baseline like the *Global Guide*, however, truly comparable global giving data cannot exist. Many companies choose not to aggregate their global giving figures, or they are unsure of their results. Tracking and reporting are done in an uncoordinated manner, sometimes resulting in incomplete data. In short, internally developed policies result in numbers that to other companies are all but unusable for benchmarking.



WHAT THE GLOBAL GUIDE DOES NOT DO:

While the *Global Guide* creates an international standard for specific purposes, the standard is not intended to have policy implications or legal repercussions. It should also not be construed as a standard that dictates internal company policy or procedure, as the focus is on agreement among companies and not on redefining one company’s specific, strategic priorities.

Nor does the *Global Guide* provide advice on how to create or expand an international giving program, whether in a particular jurisdiction or within a company’s own cultural environment. The guide does not recommend recipients or partners. However, there are many excellent organizations equipped to help companies start or expand their international giving, and several of these are listed in the guide’s acknowledgments.

Finally, how to measure giving’s impact is not an aspect of this project, either—although impact measurement is a vigorous and important ongoing conversation. Please refer to CECP’s report *Measuring the Value of Corporate Philanthropy*¹ for more information on this topic.

WHAT THE GLOBAL GUIDE DOES DO:

The *Global Guide* improves philanthropy measurement by proposing an international standard by which companies can track and report their giving. Companies that uniformly report using the *Global Guide* will produce truly comparable figures, thus moving toward transparency for all consumers of this data. Increased transparency responds directly to consumer demands (see Figure 3).

- 1 MUST BE FORMALLY ORGANIZED
- 2 MUST EXIST FOR A CHARITABLE PURPOSE
- 3 MUST NEVER DISTRIBUTE PROFITS

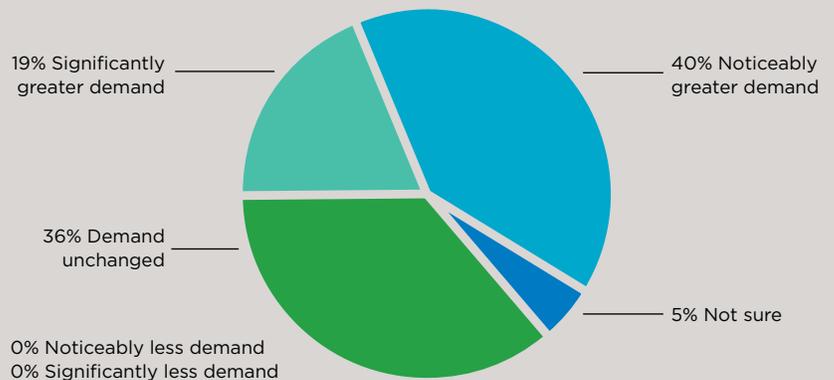
The *Global Guide* creates a measurement standard based on three criteria independent of any one country or region’s regulations. Currently, such a standard does not exist. These criteria also make an affirmative and definitive (though not exhaustive) statement on the current industry standard for what recipients contribute to societal benefit.



The *Global Guide* focuses on being current and relevant, so that the *Global Guide* criteria can be applied year-over-year to capturing global giving data through a corporate survey.

FIGURE 3: CEO PERSPECTIVE, THE IMPORTANCE OF TRANSPARENCY

Are consumers demanding greater transparency regarding your company’s community-engagement initiatives than they were five years ago?

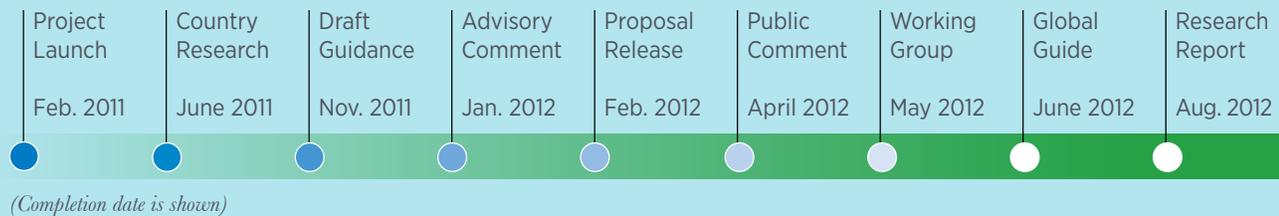


Source: CECP Board of Boards CEO Conference, Attendee Poll, February 2012

¹ <http://www.corporatephilanthropy.org/research/thought-leadership/research-reports/measuring-the-value.html>

Methodology

FIGURE 4: DEVELOPING THE GLOBAL GUIDE: MILESTONES



A thorough review and analysis of the factors that would likely influence global corporate giving was a fundamental step in addressing the unique challenges of developing a standard measurement framework. The primary goal was to analyze corporate giving practices across multiple country jurisdictions, thus finding areas of synthesis and discrepancy that would inform the criteria established in the *Global Guide*.

CECP worked with assistance from Deloitte to develop and implement comprehensive survey research on the current conditions affecting global corporate giving. Deloitte's invaluable experience in designing global business impact standards such as the *Impact Reporting and Investment Standards (IRIS)* and the *Global Impact Investing Ratings System (GIIRS)*, together with the company's extensive consulting, audit, and tax knowledge and experience, made Deloitte the ideal consultant for this project.

THE REGULATORY ENVIRONMENT SURVEY (RES)

The seventeen countries with the highest concentration of 2010 Fortune Global 500 companies' headquarters were selected to be the focus of this study, ensuring balance among differ-

ent geographical regions. The countries selected were Australia, Brazil, Canada, China, France, Germany, India, Italy, Japan, Mexico, the Netherlands, South Korea, Spain, Switzerland, Russia, the United Kingdom, and the United States. Countries that did not have at least two Global Fortune 500 companies were automatically removed from consideration. After selecting the jurisdictions to be sampled, Deloitte then assisted CECP to develop and administer the Regulatory Environment Survey (RES).

The survey was divided into three categories of questions designed to inform the team on current conditions and challenges existing in the field:

Comparing Jurisdictional Definitions of "Charitable"

Giving. Because different jurisdictions have different definitions on what constitutes a "charitable" organization and donation, it was necessary to reconcile the discrepancies that existed among the jurisdictions regarding how each defined a reportable donation. Several categories were identified to obtain more detailed information from the foreign jurisdictions, by determining the following data points:

- The types of organizations that qualify as charitable within each country;

- The types of activities by those organizations that qualify as charitable; and
- The types of activities that prevent an organization from becoming a charitable organization or that result in the disqualification of an otherwise charitable organization (termed a “disqualifying event”).

After a first phase of country-by-country inquiry, Deloitte prepared a list of various activity types based on the National Taxonomy of Exempt Entities (NTEE), published by the National Center for Charitable Statistics (NCCS). Using the matrices completed in the first phase of research, Deloitte sorted each country’s responses against the list of activities and then prepared and filled a second matrix outlining whether certain types of activities should be considered as “charitable.”

Identifying Legal Factors: Tax Laws and Regulatory Environment.

The team also collected information on legal factors influencing corporate donors in the seventeen selected jurisdictions. These questions focused on determining how the tax laws and regulatory environment affected corporate donors’ decisions on giving. Deloitte sought to determine:

- The types of tax benefits and incentives available to corporations that donate to qualifying charitable organizations or activities;
- Whether tax laws governing donations to charitable organizations fluctuated or were frequently changed;
- Restrictions and caps on giving (relating to tax benefits and other benefits that corporations might receive);
- Other fiscal, social, and political regulations that might influence donors; and

- Financial reporting valuation methods, including how non-cash contributions are valued for financial reporting purposes.

Examining Cross-Border Issues.

Cross-border giving is giving made by a corporate headquarters in a jurisdiction foreign to its headquarters country. To understand the effects that national variances would have on developing a global measurement framework, the team sought first to gain an understanding of how cross-border issues are typically handled in each of the seventeen jurisdictions. Deloitte member firms locally advised on certain cross-border issues such as the permissibility of cross-border donations, the availability of tax benefits, and specific rules for cross-border donations.

To engage qualified and knowledgeable survey respondents, the Deloitte team leveraged their access to specialists with knowledge and experience of the tax laws and regulatory environments of each country surveyed. To complete the country surveys, Deloitte’s consultants reviewed the survey matrices, referred to Deloitte professionals located in the jurisdictions studied, and assisted CECF when necessary with follow-up questions.

DEVELOPMENT OF THE VALUATION GUIDANCE

The responses collected from the RES were analyzed and quantified for consistency to identify the level of consensus and to reconcile discrepancies as to what constitutes a “charitable” organization and donation—also as to how jurisdictions handle donor and cross-border issues. To ensure that sufficient and appropriate evidence was collected to provide a reasonable basis for the survey findings and conclusions, the team performed secondary research and follow-up work as necessary to obtain the most complete and accurate assessment of the current conditions present within each jurisdiction.

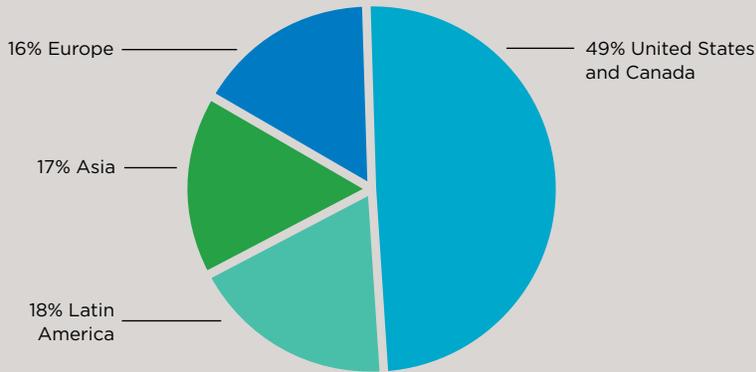
Key findings from the RES are presented in the International Research Findings section of this report. These findings are organized by topical areas that the team observed as having either a high degree of consensus or discrepancy among the respondents. After the survey findings were applied to establishing the proposed global valuation guidance, a first draft of this proposal was shared with, and critiqued by, hand-selected non-governmental organizations (NGOs) and companies in the Advisory Group (see page 35).

REFINING THE GUIDANCE: ONLINE PUBLIC COMMENT

After this analysis, an exposure draft of the proposed global valuation guidance was published online from February 27 through April 9, 2012. As part of the refinement process, industry leaders and professionals were invited to participate in a public comment period and asked to provide feedback to the proposed guidance by responding to questions on an online feedback form.

FIGURE 5: ENGAGEMENT BY REGION

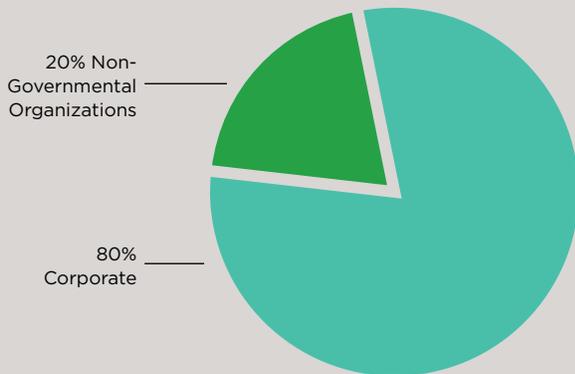
Breakdown of Practitioner Respondents



Source: Public Comment Period, Spring 2012, N=79

FIGURE 6: ENGAGEMENT BY SECTOR

Breakdown of Practitioner Respondents



Source: Public Comment Period, Spring 2012, N=79

Respondents were asked a total of eighteen questions about the content of the proposed global valuation guidance and were requested to select from among multiple-choice answers. Responses to the feedback form were compiled, analyzed, and quantified when possible; four especially representative queries are presented in the International Research Findings section of this report. In general, feedback from the public comment period indicated strong support of the three *Global Guide* criteria. Figures 5 and 6 provide detail on respondents.

FINALIZING THE GUIDANCE: WORKING GROUP

Finalizing the *Global Guide* required a fresh collaborative effort, which we called the Working Group. The Working Group’s goal was to consider all project inputs and then determine the final text of the guide.

The Working Group was made up of CECF staff, Deloitte International Tax Services, Deloitte Sustainability, and the Johns Hopkins Center for Civil Society Studies. Over a series of meetings, the Group agreed on various edits to the proposed global valuation guidance—edits designed to ensure that the resulting final criteria best reflect the scope of work achieved, as well as its intended purpose and audience.

THE GLOBAL GUIDE

Determining which recipients to include when reporting corporate charitable giving.

THREE CRITERIA

Eligible for Inclusion. A recipient (institution, organization, or entity) must meet all of the following criteria:



1

MUST BE FORMALLY ORGANIZED

- › The purpose of this criterion is to specifically exclude individuals and ad hoc groups that lack structure or organizational identity.
- › The primary method by which to satisfy this criterion is through recognition as a legal entity by the standard of the country in which it is headquartered. The type of legal entity is immaterial; it could be a corporation, association, or any other valid legal form.
- › In many countries, recipients that are formally organized nonetheless face significant obstacles in establishing legal recognition. In the absence of legal recognition, a recipient must produce evidence that it has liabilities that are distinct from those of its members, such as proof of formal leadership (e.g., the presence of a governing board) as well as structured rules of operation (e.g., a charter or bylaws).
- › Government or state-run recipients must be excluded. See one exception in Criterion #2, “Education and Research.”

3

MUST NEVER DISTRIBUTE PROFITS

- › The purpose of this criterion is to distinguish commercial motives from non-commercial motives as the purpose for which a recipient is formally organized.
- › To satisfy this criterion, a recipient’s finances must be managed exclusively to produce a charitable benefit:
 - All sources of revenue must always be reinvested in achievement of the organization’s mission.
 - Surplus revenue must not be distributed to entities or individuals. An example of this is when those with a financial share in the organization, such as owners, members, founders, investors, shareholders, or a governing board receive dividends based on the institution’s performance.
 - Excessive salaries or perquisites are grounds for excluding a recipient.

- › The purpose of this criterion is to distinguish charitable purposes from all other purposes for which a recipient entity is formally organized.
- › Include recipients whose institutional purpose falls within one or more of the major activity and purpose categories listed and described in the “Included Charitable Activity Categories” section.
 - *The categorical system used here is drawn from the International Classification of Nonprofit Organizations (ICNPO). This is a global standard endorsed and promoted by the United Nations. The examples listed under each category are suggestive, not exhaustive.*
 - *To be included, a recipient's institutional purpose is evidenced by more than half of its total expenditures being directed toward an activity or activities.*
- › Exclude recipients whose institutional purpose falls within one or more of the categories listed in the “Excluded Charitable Activity Categories” section.

EXCLUDED CHARITABLE ACTIVITY CATEGORIES

Political Parties and Organizations: Political Parties and Political Organizations.

Examples: Political parties; organizations to register voters; and organizations that distribute political literature.

Business and Professional Associations; Unions: Business Associations; Professional Associations; and Labor Unions.

Examples: Professional associations (such as an organization for lawyers) and business associations (such as a chamber of commerce).

Religion: Religious Congregations and Associations.

Examples: Any institution promoting religious beliefs and administering religious services or rituals, including churches, synagogues, temples, mosques, shrines, and monasteries.

- Exception: Contributions coordinated or implemented by a religious institution but which fund one or more included charitable activities or purposes are included.

Not Elsewhere Classified.

INCLUDED CHARITABLE ACTIVITY CATEGORIES

Culture and Recreation: Culture and Arts; Sports; and Other Recreation and Social Clubs.

Examples: Visual and performing arts; architecture; historical societies; museums; publications and broadcast media; zoos and aquariums; social and service clubs; recreational facilities; and amateur sports clubs.

Education and Research: Primary, Secondary, Higher, and Other Education; Research.

Examples: Elementary and primary education; higher learning; pre-schools; technical and vocational schools; and medical, scientific, and social science research institutions. Government or state-run education institutions (in some countries, these are called “public schools”) are included.

Health: Hospitals and Rehabilitation; Nursing Homes; Mental Health and Crisis Intervention; and Other Health Services.

Examples: Institutions providing inpatient and outpatient care; rehabilitation centers; public health and wellness education; and emergency medicine.

Social Services: Social Services; Emergency and Relief; and Income Support and Maintenance.

Examples: Child and youth welfare; daycare centers; services for families, the handicapped, or the elderly; domestic disaster prevention; temporary shelters; domestic refugee assistance; organizations that provide direct income support and material assistance; and self-help programs.

Environment: Environment and Animal Protection.

Examples: Pollution abatement; natural resource conservation; environmental beautification; animal protection; and wildlife preservation.

Development and Housing: Economic, Social, and Community Development; Housing; and Employment and Training.

Examples: Organizations working to improve quality of life or improve economic infrastructure within communities; entrepreneurial programs; job training programs; vocational counseling and rehabilitation; and housing assistance.

Law and Advocacy: Civic and Advocacy Organizations; Law and Legal Services.

Examples: Civil rights associations; organizations that advocate for the rights and protection of specific groups (such as women, the elderly, and children); and organizations that rehabilitate offenders or provide victim support.

Philanthropic Intermediaries and Voluntarism Promotion: Grant Making Foundations; Other Philanthropic Intermediaries; and Voluntarism Promotion.

Examples: Private foundations; organizations that recruit, train, and place volunteers and promote volunteering; and collective fund-raising organizations.

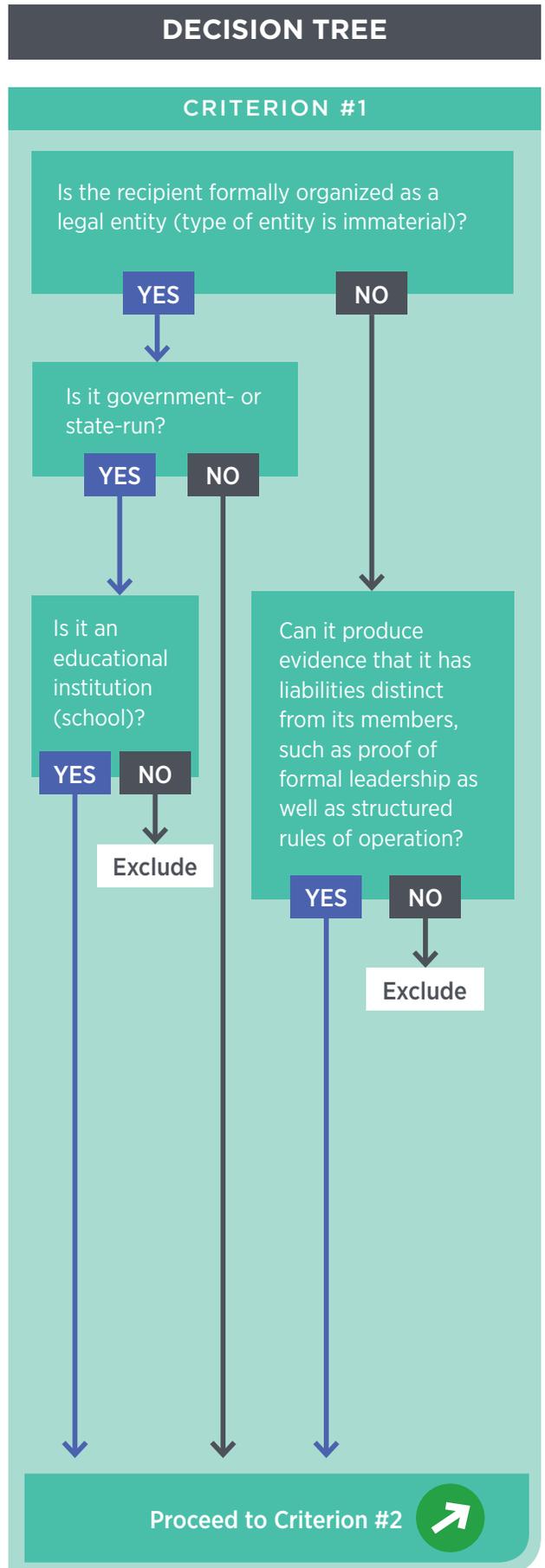
- Exception: Grant Making institutions that direct more than half of their funds toward one or more of the excluded activities and purposes outlined in “Excluded Charitable Activity Categories” are excluded.

International: International Activities.

Examples: Exchange/cultural programs; international development assistance; international disaster recovery and relief; and international human rights.

APPLYING THE GLOBAL GUIDE

Which of your grant recipients would be included?



DECISION TREE continued

CRITERION #2

Does its institutional purpose fall within one or more of these included categories?

- Culture and Recreation
- Education and Research
- Health
- Social Services
- Environment
- Development and Housing
- Law and Advocacy
- Philanthropic Intermediary and Voluntarism Promotion
- International

YES

NO

Is it a philanthropic intermediary?

YES

NO

Is it a religious institution?

YES

NO

Exclude

Does it direct more than half its funds toward:

- Political Parties and Organizations
- Business and Professional Associations; Unions
- Religion

YES

NO

Exclude

Is the contribution designated to fund one or more included charitable activities or purposes?

YES

NO

Exclude

Proceed to Criterion #3



CRITERION #3

Does it ever distribute profit?

YES

NO

Exclude

Include

INTERNATIONAL RESEARCH FINDINGS

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Findings

The first step toward developing internationally relevant and inclusive *Global Guide* criteria was rigorous research. The objective of this research was to uncover descriptive factors for corporate giving recipients that had the highest level of agreement among the surveyed countries. The research process was developed with awareness that tax law, regulatory environments, and cross-border regulations vary across international jurisdictions and that this variability presents major challenges for measuring corporate giving in a global context.

CECP with the assistance of Deloitte created and distributed a ninety-question Regulatory Environment Survey (RES) to gather data on the current conditions

in seventeen countries with the highest concentrations of Fortune Global 500 companies as shown in Figure 7.

To engage qualified and knowledgeable survey respondents, the Deloitte team leveraged their access to specialists with knowledge and experience of the tax laws and regulatory environments of each country surveyed. CECP then published the proposed global valuation guidance online and hosted a public comment period. The “Methodology” section of this report describes this process in more detail.

Although tax incentives and legal classifications are subject to change, most countries demonstrate stable regulatory environments in which the tax laws governing donations and the tax status of charitable organizations have not changed significantly in the last ten years. Approximately 88% of the surveyed jurisdictions reported that there had been no significant legislative changes that have considerably affected qualification criteria for charitable status. Some jurisdictions did note less significant changes, such as alterations to annual reporting requirements, but these changes did little to affect the general stability.

This section presents the results of the RES survey. The survey generated twelve key findings with respect to the tax laws, regulatory environments, conditions, and challenges present in the surveyed jurisdictions. These results are the source data used to standardize a definition for what constitutes a “charitable organization,” otherwise commonly recognized as a recipient of corporate giving.

Five of the twelve findings had a direct and fundamental influence on the development of the *Global Guide* criteria—as indicated by the presence of an infographic (right).

This visual mark displays the connection between findings and criteria. The remaining seven findings served as invaluable context to determining the criteria, although they did not inform the criteria directly.

All findings were not covered in the public comment questionnaire because it was built to assess support for the proposed global valuation guidance. Therefore, a sampling of four public comment results that do connect to a particular finding have also been included (Findings I, III, IV, X).

In order to understand how countries define or classify recipients (institutions, organizations, or entities) that they consider “charitable,” the RES began with a series of questions related to the activities, organizational structure, and regulatory mechanisms that governments use to define and classify entities that they consider of societal benefit. The survey then shifted its focus to contribution types.

“Even within our company there often times may not be full consensus on how to measure certain types of giving when reporting.

With each foundation operating independently, there is a particular challenge in gathering relevant information to share as we seek collaborative partners in our efforts.”

ORANGE FOUNDATION (FRANCE)

FIGURE 7: 2010 FORTUNE GLOBAL 500 CONCENTRATION

Number of Companies per Country	
Brazil	7
Canada	11
China	46
France	39
Germany	37
India	8
Italy	11
Japan	71
Mexico	2
Netherlands	13
Russia	6
South Korea	10
Spain	10
Switzerland	15
United Kingdom	29
United States	139

Source: www.forbes.com



Charitable organizations must have approved legal structures in some jurisdictions, but requirements vary across jurisdictions.

Influenced Global Guide Criterion #1

1 “Legal structure” refers to an entity type, separate from an individual person, recognized by the government.

A majority of the countries surveyed recognize and approve specific types of legal structures, such as associations or foundations. Some jurisdictions require all charitable entities to organize into specific legal structures, generally as a means of classifying them for regulatory and tax purposes.

structure may best accommodate and describe its purpose. However, this does not mean that all associations are charitable organizations or vice-versa.

REQUIREMENTS VARY FOR CHARITABLE ENTITIES TO ORGANIZE AS GOVERNMENT-APPROVED LEGAL STRUCTURES.

Survey responses revealed that while a majority of jurisdictions require entities to organize as a specific type of legal structure, others are more flexible or do not have any specific requirements. Country responses were broken down into three categories according to their requirements:

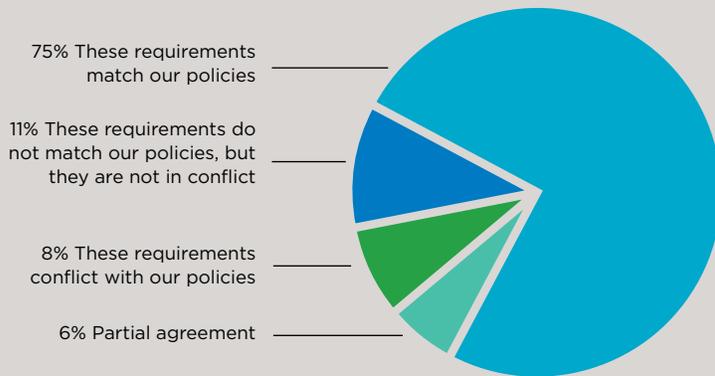
Category 1 Specific Legal Structures Required.

A majority (65%) of the surveyed jurisdictions require entities to be organized into a recognized, approved legal structure based on its mission, purpose, or the types of activities in which it intends to engage. In those jurisdictions, the type of legal structure is generally dependent upon the nature of the organization’s activities. For example:

- The **United Kingdom** has four primary forms of not-for-profit, non-governmental organizations (NGOs): companies limited by guarantee, unincorporated associations, trusts, and industrial and provident societies. An NGO in any of those categories can qualify as a “charity.” A charity is eligible for significant tax benefits and is also subject to a series of regulations relevant to an equivalency determination.
- In **France**, the government recognizes two primary forms of NGOs—associations and foundations—and further breaks down the classifications into sub-classifications that correspond with different categories of activities.

FIGURE 8: PRACTITIONER RESPONSE, LEGAL STRUCTURES

There are two key requirements: 1) That the recipient is government-registered, and 2) that it does not distribute profits. How do these requirements compare to your company’s current policies and practices?



Source: Public Comment Period, Spring 2012, N=73

Certain common legal structures are not exclusive to charitable organizations. In these cases, filing for charitable status can be done separately from establishment as a legally recognized entity.

A commonly known entity of this description is a corporation. Corporations can be charitable or non-charitable in Australia, India, South Korea, and the United States. Likewise, if an organization has a membership focus, it may be required to organize itself as an association, since that legal

Category 2

Flexible Legal Structures. Twenty-nine percent of the surveyed jurisdictions recognize certain types of legal organizations as common classifications for entities that perform charitable activities, but do not restrict entities to those categories as a prerequisite for obtaining charitable status or tax benefits.

- In **Italy**, charitable organizations are not required to have a specific legal status or type of organization (they can be associations, foundations, committees, cooperatives, etc.) However, the activity performed must be in strict compliance with legal requirements in order to obtain beneficial tax treatment.
- In **Mexico**, there is no federal law establishing a definition for the types of legal institution that qualify as “charitable organization,” but some states within Mexico have established a definition for local purposes.
- Similarly, in **Canada**, membership corporations, trusts, and unincorporated organizations and associations form the most common types of charitable organizations; however, Canada has no statutory requirements (under either federal or provincial laws) that specifically govern the legal form under which a not-for-profit entity must be organized.

Category 3

No Legal Requirements. The Netherlands (which represents 6% of survey responses) is the only jurisdiction that has no specific legal requirements or defined categories for recognizing charitable organizations. In the Dutch Civil Code, a foundation (*stichting*) is defined as “a legal person created by a legal act which has no members and whose purpose is to realize an objective

stated in its statutes using capital allocated to such purpose.” Dutch foundations may be used for different purposes.

There are no universal characteristics for defining and classifying even common legal structures.

The most common types of legal structures found in the surveyed jurisdictions are associations and foundations. About 80% of the countries list them among their classifications for charitable organizations; they also generally define them in similar ways.

For example, associations are generally defined and understood to be membership-based organizations open to members of the public with a common interest and organized by a written agreement to achieve a non-economic purpose. A foundation is commonly understood to be an organization or institution that engages in charitable activities or finances other organizations for that purpose.

Despite commonly used terms for some legal structures, classifications and terminologies for legal structures are not always interpreted in the same way across all jurisdictions. For example, Spain uses the term “foundation” interchangeably with its general definition for “charitable organization” and applies a broader meaning to the term “foundation” than is used or interpreted in the United States. In the United States, a foundation is defined as a formal structure consisting of a corporate body created by a dedication of assets for a specific charitable purpose. In Japan, foundations aren’t necessarily legal entities that have a societal benefit. There is a separate designation used to denote a “foundation of public interest.”

A few jurisdictions have unique types of legal structures available for some types of charitable functions not commonly seen elsewhere. China has one form of legal structure called a “Government-organized NGO,” which is a quasi-government agency that is generally formed by the government and staffed with government employees. Public institutions may receive grants from foreign donors and are subject to some of the same tax rules as nonprofit organizations. Japan currently has a transitional type of entity called a Public Interest Legal Person (PILP), generally comprised of only one or a few individuals. This is a transitional organizational form that is being phased out due to laws established in December 2008.

“With a new standard, we would have the ability to quickly assess philanthropic value regardless of the country.

Often times the legal definition of what constitutes public and charitable institutions is difficult to understand, even for those working on the inside.”

DYNAMO/KME (ITALY)

SPOTLIGHT ON CHINA

Unique Institutions in the Civil Sector

CONTRIBUTOR:

BSR | 慈源 CiYUAN

Business for Social Responsibility (BSR)'s CiYuan initiative builds innovative cross-sector partnerships to enhance the value of social investment in China. Through this initiative, BSR has deepened its professional knowledge about the current nonprofit sector environment in China, including understanding the nuances of institutional structures there.

One specific example is government-organized NGOs (GONGOs), a type of nonprofit unique to China. While not officially considered to be a government authority, GONGOs are usually set up by a specific government department and adopt similar



systems of operation. GONGOs typically focus on issues traditional to the charitable sector, such as poverty alleviation, education, and women and children's development. GONGOs usually have between 30 and 100 employees but are able to use government agencies and networks to implement programs nationwide. Aside from their close ties to the government, GONGOs have the legal ability to solicit funds from the public (which other nonprofits are not permitted to do), a status that has also given rise to the name "public foundations." They are also able to provide a receipt allowing donors to claim a tax deduction from their contribution. This provides them with a financial advantage over other types of nonprofit organizations such as "private foundations," associations, and other types of grassroots NGOs.

China also has some country-specific nuances related to nonprofit registration. Historically, grassroots nonprofits had to identify a government department or institution that would be responsible for their sponsorship and supervision. While recent regulation gives nonprofits in selected cities or provinces that work across specific issue areas the ability to register directly via local civil affairs bureaus, there are still challenges associated with the implementation of this regulation and related issues such as whether NGOs can publicly fundraise and enjoy the same tax benefits as GONGOs.

Given the challenges nonprofits experience in both registration and public fundraising, it can be difficult for these organizations to hire staff, accept funding from foundations or companies, or tender for proposals or contracts. However, such barriers have also inspired these organizations to seek more entrepreneurial approaches in their operations and in revenue generation. In addition, some GONGOs are helping grassroots nonprofits overcome some of these financial hurdles by allowing the nonprofits to register a fund beneath them.

CiYuan Manager Brooke Avory speaks with a participant.



Understanding the full landscape, including different types of NGOs, has been instrumental to CiYuan in its work in China to help business integrate philanthropy with core business strategy, foster collaboration, and inspire innovation.

GONGOs typically focus on issues traditional to the charitable sector, such as poverty alleviation, education, and women and children's development.

Annual reports (usually financial) are required in a majority of jurisdictions, but filing requirements and processes vary.

Influenced
Global
Guide
Criterion #1

1 To ensure that charitable organizations comply with laws and regulations governing their operations, 82% of the surveyed jurisdictions require them to provide annual financial reports by filing documentation with the appropriate regulatory authority.

Filing requirements generally include some type of annual financial statement that provides an accounting of the organization's finances, usually for an annual period. Annual reports may also include supplementary information such as descriptions of the organization's activities and accomplishments, directors' reports, audit reports, performance reports, and fundraising receipts.

SOME JURISDICTIONS HAVE MORE STRINGENT ANNUAL REPORTING REQUIREMENTS FOR DIFFERENT SIZES OR TYPES OF CHARITABLE ORGANIZATIONS.

In 18% of jurisdictions, the reporting requirements depend on the size of the entity's annual revenues or the scope of its operations. Australia classifies eligible organizations into three tiers based upon annual revenues and tax deductibility status; each tier has different filing requirements. In the Netherlands, some organizations can be exempted from the filing process based on the size or level of their operations.

Filing requirements in some jurisdictions, such as France and Spain, depend on the legal structure or size of the organization, with some types of entities subject to a more formal or comprehensive filing process and others permitted to follow a more streamlined process. In France, all foundations are required to file and publish an annual report and budget, and associations with budgets of more than 150,000 Euros must publish their accounts on the public website

*Journal Officiel*². Spain requires external audits for larger organizations that meet certain asset and employee thresholds.

IN LIEU OF ANNUAL FILING REQUIREMENTS, AUDITS OR OTHER REPORTING OBLIGATIONS ARE USED TO ENSURE COMPLIANCE.

Twenty-four percent of jurisdictions have no annual filing requirements, but still hold organizations accountable for conforming to laws and regulations. For example, while Switzerland does not require charitable organizations to file annual documentation, they are subject to a yearly audit at the discretion of the regulatory authority responsible for their oversight. In India, once an institution is registered, it continues to operate for as long as it continues to fulfill the conditions of its registration—or it disbands, owing to the completion of its objective.

A few jurisdictions have unique requirements for ensuring compliance with regulatory requirements. Germany is one example. It has a unique requirement for organizations to file financial reports every three years instead of annually. German organizations must apply to local tax offices that issue an exemption certificate upon application, stating that the applicant qualifies as a nonprofit organization (NPO) and is thus tax-exempt. The certificate is valid for three years.

Mexico provides another unique example. In lieu of financial statements, Mexico only requires organizations to submit financial reports at the point of registration. For subsequent years, only an "annual notice" is required that asserts, under oath, that the organization continues to comply with all applicable requirements.

"Zurich operates on a truly global basis, serving customers in more than 170 countries. And about as many disparate definitions seem to exist as to what constitutes a charitable organization; some, for example, impose income thresholds.

As we continuously endeavor to better track and measure our global community investments, utilizing a single measurement across our group could significantly reduce the time invested into consolidating this data for our reporting."

ZURICH FINANCIAL SERVICES
(SWITZERLAND)

² <http://www.journal-officiel.gouv.fr/>

Registration and oversight of charitable organizations is conducted by at least one government agency or department in all jurisdictions.

Registration is the process by which governments recognize, approve, and certify charitable organizations within their jurisdictions and allow them to engage in activities that support their mission, such as education or health care.

Registration sometimes occurs at the same time that an entity is formalizing as a legal structure; other times these are accomplished separately. Agencies that register charitable organizations have the function of ensuring that any entity that applies for designation as a charitable organization meets the domestic jurisdiction’s legal criteria governing the requirements for charitable organizations.

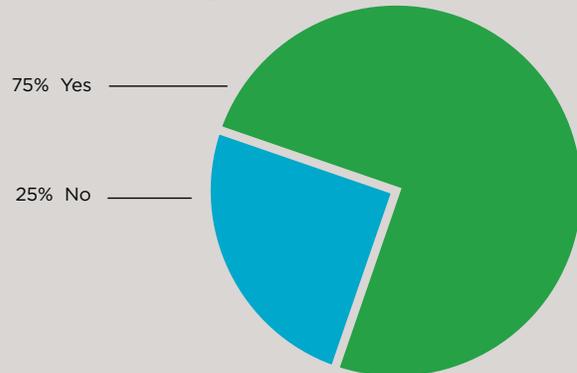
In all of the surveyed jurisdictions, there is at least one designated government department, agency, or office responsible for the registration and oversight of charitable organizations. An entity that seeks charitable status is required to register and obtain certification that gives it the right to operate within a defined scope and raise funds for its charitable mission. Across jurisdictions, the registration process for charitable organizations accomplishes different things, and is applied and understood differently, particularly when it comes to tax benefits and/or how charitable organizations will be regulated.

REGISTRATION ALMOST ALWAYS LEADS TO TAX BENEFITS, ALTHOUGH SOME JURISDICTIONS HAVE A SEPARATE PROCESS FOR REGISTRATION AND TAX-EXEMPTION.

Across all jurisdictions in the study, national governments provide some form of tax benefit or tax relief to registered charitable organizations. For charitable organizations to enjoy special tax benefits, all jurisdictions require entities to register with the proper regulatory authority. The tax benefit

FIGURE 9: PRACTITIONER RESPONSE, GOVERNMENT REGISTRATION

Must a recipient organization be registered as a charitable organization with the government in which it is headquartered in order to receive contributions from your company?



Source: Public Comment Period, Spring 2012, N=57

that they receive is usually applied to income taxes, but some jurisdictions also provide charitable organizations relief from other types of taxes, such as value-added-tax (VAT).

In 71% of jurisdictions, the same authority that regulates charitable status also regulates an organization’s tax-exempt status (or its qualification for favorable tax treatment) and thus registration and tax-exemption are part of the same process. As a result of its registered charitable status, the organization is automatically exempted from income taxes on all expenditures that support its mission.

There are a few jurisdictions that have a separate process for charitable status and tax exemption. In France, registration is a necessary legal prerequisite for obtaining tax benefits, but an additional questionnaire must be completed with tax authorities to determine if the organization can qualify for tax benefits. The United Kingdom, which makes a legal distinction between a “charity” and a “charitable organization,” has a special type of incorporated charity called a “Charitable Incorporated Organisation”

(CIO). In addition to meeting criteria for registering as a charity, CIOs must meet a separate, additional set of criteria to obtain tax-exempt status, such as submitting an annual return and additional financial reports regardless of the amount of its annual revenues.

WHILE SOME COUNTRIES REGULATE SOLELY NATIONALLY, OTHERS HAVE MORE THAN ONE LEVEL OF REGULATORY AUTHORITY.

National Approaches

Sixty-five percent of the surveyed jurisdictions register and regulate charitable organizations at the national level. In most cases, they are required to register through a national level authority such as a Tax Office, Internal Revenue Agency, or the Ministry of Finance of each country.

For example, Canada, Australia and the United States require all charitable organizations to register through federal revenue authorities; the oversight of registered organizations’ activities is also managed at that level. India

employs a unique national approach in that the legal organization of the entity determines where it is required to register. Furthermore, in India three different national agencies handle registration and oversight of the three different classifications of charitable organizations: “Trusts” must register through the Charity Commission, “Section 25” companies must register with the Ministry of Corporate Affairs, and “Societies” must register with the Registrar of Societies.

▪ **Multiple Level Approaches**

Among the 65% of jurisdictions that require national registration, there are three—Italy, Spain, and Switzerland—that also handle registration and oversight of charitable organizations at the regional or local level. The level of government that handles it depends on either the size (based on annual revenues) of the organization, the type of entity, or the regional location where the entity is headquartered. Each jurisdiction relies on both national and regional/local authorities to register and/or regulate the status and activities of charitable organizations.

For example, Italy requires some entities to register and be regulated by the *Prefettura*, which is a local office that represents national authority for foundations with a nationwide scope, while organizations with a more localized scope are solely regulated by regional authorities. In Spain, there are both national and regional registration authorities for each autonomous region. Foundations must register in the autonomous region where their main activity is pursued, but if it is pursued in more than one region, they are required to register at the national level. Switzerland regulates charitable organizations both nationally and locally. On the national level, the Federal Supervision Authority administers the registration process. At the

cantonal (regional) level, each canton has established a local supervisory authority that handles the oversight of charitable organizations within its jurisdiction and reports all relevant information at the national level.

Regional or Local Approaches

The remaining thirty-five percent of jurisdictions have no registration authority or process at the national level. Entities seeking charitable status are instead required to file locally with authorities in the regional or local area in which they are organized and/or operating.

In South Korea, charitable organizations are defined and codified through the civil code and there is no single agency within the country that regulates them. In Germany, charitable organizations must register and be regulated by the foundation supervisory office of the *Bundesland* (province) in which the entity seeks to be headquartered. The Netherlands registers all entities through local Registers of Commerce and the Chamber of Commerce and Industry in the entity’s local area maintains a register of all approved and currently operating organizations.

A MAJORITY OF JURISDICTIONS MAINTAIN COMPREHENSIVE PUBLIC INFORMATION LISTS OF ALL REGISTERED CHARITABLE ORGANIZATIONS.

Seventy-one percent of the surveyed jurisdictions publish a comprehensive list of all qualified organizations through the department that registers them, or employ public information tactics to communicate registered, government-approved organizations to potential donors.

They are either published on a website or can be requested from the tax agencies or the regulatory authorities that maintain them. In Mexico, for example, charitable organizations must get an authorization

issued by the Tax Administration Service which publishes information online about qualifying organizations, including the registered organization’s legal name, registry number, location, and a description of its mission and purpose.

Some countries maintain lists for only some organizations, depending on their location, size, income thresholds, or other criteria. For example, in Spain, there is a list for charitable organizations that exceed 2.4 million Euros in annual revenues. In Russia, some lists are published locally, but there are no national lists. Brazil publishes public lists only for a particular category of organizations called Society Organizations of the Public Interest (OSCIPS), although these organizations represent only one of five designations of nonprofit organizations that operate in Brazil.

A few countries use other methods to inform corporate donors that an entity is a qualified recipient and that a donation to the organization is tax-deductible. In addition to publishing a list of registered and approved organizations on a national website, French nonprofits also issue official donation receipts to their donors. In Germany, there is no published national list because charitable organizations are registered on a regional level and donation receipts are the only process in place. Only qualified German organizations can issue such receipts. This process assures the donor that his or her donation is tax-deductible.

To determine an entity’s eligibility for charitable status, all surveyed jurisdictions place a primary focus on its mission, purpose, and activities.

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Guide
Criterion #2

2

The mission, purpose, and activities of an organization serve as strong indicators for determining whether or not an entity serves

or contributes to societal benefit. At a national level, this is evidenced by the specifications of activities and purposes within the regulations of all surveyed jurisdictions. At a recipient (institutional) level, during the registration and annual reporting processes, registering organizations generally define their purposes and activities in their chartering paperwork, which may include articles of incorporation, strategic planning documents, and other documents that list the mission, goals, and objectives of the organization.

Some jurisdictions may create additional requirements for recognizing entities as eligible organizations, such as requiring them to organize in a commonly recognized legal structure; however, mission, purpose, and activities were the foundational characteristics that determined eligibility.

THERE IS SIGNIFICANT CONSENSUS CONCERNING WHAT ACTIVITY CATEGORIES QUALIFY AS “CHARITABLE”; HOWEVER, THERE ARE IMPORTANT DISCREPANCIES.

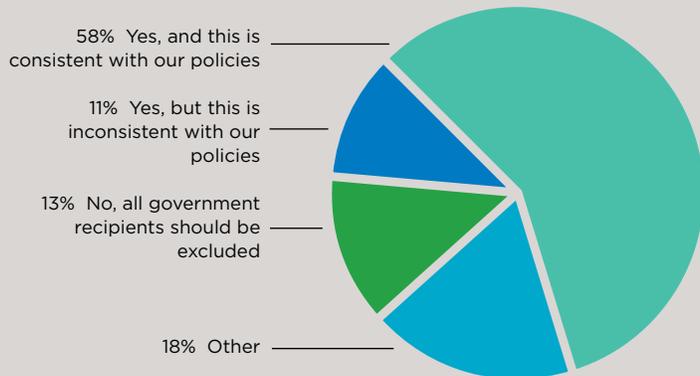
Laws in each country generally indicate which activities the jurisdiction considers to be “charitable” or having an inherent public benefit, but do not always specify which activities are prohibited. (However, prohibition is not necessarily implied by lack of inclusion in a country’s list.)

In order to determine the level of consensus among jurisdictions for various possible categories of eligible activities, main categories from the *National Taxonomy of Exempt Entities Classification*

³ http://nccsdataweb.urban.org/kbfiles/324/NTEE_Two_Page_2005.pdf

FIGURE 10: PRACTITIONER RESPONSE, GOVERNMENT-RUN SCHOOLS

Irrespective of the current policies and practices at your company, would your company support including contributions to all public education institutions?



Source: Public Comment Period, Spring 2012, N=62

*System*³ were assessed for eligibility. The system includes a total of 25 main categories, each with a varying number of subcategories that specifically describe what is included in the corresponding main category. Countries in this study were presented with the classification system for vetting and each selected the categories that met their domestic criteria for activities or purposes that they considered as providing a public benefit. The terminology used below comes from these main categories.

Categories of Unanimity

All surveyed jurisdictions reported that the categories below meet or are included within their domestic legal definition of eligible activities or purposes (those providing a societal benefit).

- Education
- Health Care
- Human Services (such as Children/ Youth Services, Residential Care, and Adult Day Programs)

Categories of Majority Consensus

In each of the categories below, at least 70% of the surveyed jurisdictions reported that the category met their criteria or is included within their domestic legal definition of eligible activities or purposes. A 70% threshold was applied in determining which categories of activities met with majority consensus among the jurisdictions.

- Arts, Culture, and Humanities
- Community Improvement and Capacity Building
- Diseases, Disorders, and Medical Disciplines
- Environment
- Food, Agriculture, and Nutrition
- Housing and Shelter
- Medical Research
- Mental Health and Crisis Intervention
- Philanthropy, Voluntarism, and Grant Making Foundations
- Public Safety, Disaster Preparedness, and Relief
- Science and Technology
- Social Science
- Youth Development

Categories of Discrepancy

Four categories fell into questionable status. The main category had less than 60% support, but 70% of the jurisdictions qualified one subcategory under that main category as an activity or purpose that provides a societal benefit. Five categories in the classification system were eliminated because fewer than 60% of the surveyed jurisdictions included them in their legal definition for activities or purposes that constitute a societal benefit.

Categories with less than 60% of the jurisdictions' support but containing at least one subcategory with more than 70%:

- Animal-Related Purposes, with the exception of the subcategory “Wildlife Preservation and Protection.”
- Crime and Legal-Related Purposes, with the exception of the subcategory “Protection Against Abuse.”
- International, Foreign Affairs, and National Security, with the exception of the subcategory “International Development.”
- Civil Rights, Social Action, and Advocacy, with the exception of the subcategory “Intergroup and Race Relations.”

Categories with less than 60%:

- Employment
- Mutual Membership
- Public Societies
- Religion or Religious Purposes
- Recreation and Sports

In addition to the types of activities and purposes that jurisdictions included and excluded in their legal definitions for what constitutes a public benefit, the research also revealed some unique insights across jurisdictions related to certain purposes and activities:

GLOBAL GUIDE CRITERION

2

MUST EXIST FOR A CHARITABLE PURPOSE

The categorical system used is drawn from the International Classification of Nonprofit Organizations (ICNPO).

INCLUDED CHARITABLE ACTIVITY CATEGORIES

- Culture and Recreation
- Education and Research
- Health
- Social Services
- Environment
- Development and Housing
- Law and Advocacy
- Philanthropic Intermediaries and Voluntarism Promotion
- International

EXCLUDED CHARITABLE ACTIVITY CATEGORIES

- Political Parties and Organizations
- Business and Professional Associations; Unions
- Religion
- Not Elsewhere Classified

- **Public (or government-managed) schools meet eligibility requirements for charitable status in almost all jurisdictions.** All surveyed jurisdictions indicated that a) the advancement of education provides an important public benefit, and b) institutions that provide public education include primary and secondary schools, high schools and gymnasiums, colleges and universities, adult and vocational education services, as well as other educational institution types deemed to contribute to raising the overall educational level of the population.

Government institutions that provide education (often referred to as “public schools”) qualify as charitable organizations in all jurisdictions except for Russia. Russia excludes public schools as charitable organizations because most public schools are government-run entities that are prohibited from obtaining charitable designation. In the United Kingdom, “public schools” are usually privately funded corporations that receive tax benefits because they provide a societal benefit.

More on Government Institutions

There are some recipient categories deemed to lie outside the *Global Guide's* scope of research and which are thus excluded from total giving calculations. However, a few such categories garnered so many mentions during the public comment period that they warrant further exploration and discussion, e.g.:

- **Government institutions (but not schools).** Public comments queried whether to include giving to government recipients. Most examples of giving to government recipients were in China, South Korea, and elsewhere in the Asian region. Non-geographically focused examples included giving to disaster relief, health sector institutions, and local (municipal) level institutions.

Inurement disqualifies an organization's eligibility for charitable status and tax exemption in almost all jurisdictions.

“Macquarie Group Foundation has representatives located in several cities around the world, with its headquarters based in Australia. With a multinational reach in our giving, we are always keen to track and fully understand the value of our contributions worldwide.

This is an excellent initiative which assists us in reaching a firmer understanding of how we compare to our peers across the field.”

MACQUARIE GROUP FOUNDATION
(AUSTRALIA)

Influenced
Global
Guide
Criterion #3

3

Private inurement occurs when an individual with a financial share in the organization, such as owners, members, founders, investors, shareholders, or a governing board, enters into an arrangement with the organization and receives a profit or benefit greater than the service or benefit based on the institution's performance. Because registered organizations are able to solicit donations and obtain favorable tax benefits not available to for-profit entities, the practice of inurement may jeopardize their charitable designation or tax-exempt status. Organizations that are not-for-profit are usually required to use surplus revenues to achieve their charitable goals.

In most types of charitable organizations, the founders, managers, officers, and other insiders are prohibited from using assets for their personal interests; doing so can result in the loss of the organization's charitable designation, tax-exempt status, or both. Eighty-eight percent of the surveyed jurisdictions indicated that an organization could lose its charitable and/or tax-exempt status if the organization's assets or revenues inured to the benefit of private individuals.

A few jurisdictions allow this practice under certain conditions, but have established conditions and regulations for how insiders may derive financial benefit. One type of Japanese organization, “Special Nonprofit Corporations” (SNCs), receive more tax benefits as compared to other types of not-for-profit organizations and therefore must adhere to more stringent rules, including rules prohibiting inurement.

More on For-Profit Institutions

There are some recipient categories deemed to lie outside the *Global Guide's* scope of research and which are thus excluded from total giving calculations. However, a few such categories garnered so many mentions during the public comment period that they warrant further exploration and discussion, e.g.:

- **“For-profit” social institutions and/or social entrepreneurs.** Many comments queried whether to include giving to recipients that blur the lines of institution types, including profit-oriented businesses that function primarily for a social purpose, or socially driven nonprofits that increasingly operate with business-oriented commercial activities.

Commercial activities usually do not disqualify charitable organizations, but most jurisdictions require separate financial reporting and tax obligations.

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Global
Guide
Criterion #3

3

Although there is no universal definition for what constitutes “commercial activities,” most jurisdictions generally interpret them as income-seeking business activities that produce revenue.

With the sole exception of China, which does not permit charities to engage in any form of commercial activities, all surveyed jurisdictions reported that commercial activities do not automatically threaten the organization’s charitable status or tax benefits. By leveraging market forces, some organizations are able to boost their fundraising efforts and significantly enhance their revenues. Examples of a charitable organization engaging in commercial activities include:

- A museum that charges an admission price for an event or activity.
- An established and experienced nonprofit organization that offers consulting services to start-up nonprofits for a fee.
- An environmental organization that sells repurposed or recycled goods.
- An economic development organization that sells artisanal crafts made by an indigenous population.
- A community-based organization that offers free professional services (e.g., tax or legal) to low-income families, but provides the same services to small businesses for a fee.

Because most registered organizations are able to solicit donations and enjoy tax benefits that are not available to for-profit entities, they must abide by strict rules to obtain and maintain their tax-exempt status. As a result, not all of their activities (such as some commercial activities) may be exempted from taxation.

JURISDICTIONS EMPLOY VARIOUS STRATEGIES TO REGULATE PARTICIPATION IN COMMERCIAL ACTIVITIES.

Jurisdictions use different methods to regulate and restrict nonprofit organizations in the commercial economic realm. The levels of tolerance and restriction vary. In general, registered organizations are permitted to engage in commercial activities as long as the activities fall within the jurisdiction’s approved guidelines for the conduct and financial management of not-for-profit organizations. The survey results revealed some common rules that jurisdictions use to limit or regulate charitable organizations’ involvement in commercial activities:

An organization’s activities and financial expenditures must be primarily focused on not-for-profit activities. Some jurisdictions, such as France, Germany, and Australia, allow for-profit activity as long as the predominant activities and expenditures of the organization are focused on public benefit and do not relate to profit-making or excessively come into competition with private enterprises.

Some jurisdictions impose thresholds for commercial activities. To discourage excessive engagement in commercial activities, some jurisdictions impose thresholds that limit the amount of income that an organization can generate by competing in commercial markets. For example, in Italy, revenue gained from commercial activities must not exceed 66% of a charitable organization’s total budget. Mexican law limits commercial income to 10% of an organization’s total income in a given fiscal year.

Separate tax obligations and financial reporting must be applied to commercial and nonprofit activities.

In jurisdictions that allow charitable organizations to undertake commercial activities, such activities are generally not exempted from taxation. Tax authorities require separate books of account for “not-for-profit” and “for-profit” activities.

- In the Netherlands, Italy, and Canada, profits earned by charitable organizations are subject to taxation if the organization’s commercial activity comes into competition with commercial enterprises or falls outside the scope of the organization’s stated purpose, mission, or objectives.
- Not-for-profit organizations in South Korea must file corporate income tax returns for profits they generate. In Switzerland, income from “non-charitable” commercial activities could be taxable at a “reduced mixed-company rate” and Dutch tax authorities specifically require that commercial activities must be “clearly distinguished from charitable activities to avoid losing exempt status.”
- Brazil specifies that organizations “... may not have any for-profit activities combined with nonprofit activities.” This means that organizations do not necessarily lose their tax-exempt status for engaging in for-profit activities, but are required to track and report those activities separately from not-for-profit activities.

SPOTLIGHT ON FRANCE

A Unique Way to "Charter" a New Course

CONTRIBUTOR:



For companies in France, charitable giving is framed by law and

based on very advantageous tax incentives. France is one of the rare European countries allowing the deduction of corporate donations from the actual tax due (*l'impôt sur les sociétés*), rather than from the income on which tax is calculated. Foundations and associations, the two major categories of beneficiaries in France, are both required by law to operate for "nonprofit" oriented purposes.

Clearly stated in the regulations are prohibitions against any organizational stakeholders or trustees receiving financial benefits of any kind. Furthermore, any unrelated economic activities are taxed at the normal corporate income tax rate. These requirements are seen in the traditional structure of most NGOs in France. However, these requirements leave aside the growing reality of organizations mixing commercial activities with a general-interest or social goal, such as in the sector of *Entrepreneurs Sociaux*.

Admical, an official French Association, has been actively promoting corporate philanthropy since 1979. It provides its



Admical team joined by the Minister of Education on the inaugural day of signatures on the Charter, February 2012.

180 members with a network, discussion forum, and research laboratory, in addition to its 33 years of expertise. Recently, Admical sought to document a rethinking—outside the constrictions of tax law—of the relationship between corporations and beneficiaries.

The resulting Charter (*La Charte*) now has over 70 corporate signatories and a total of 170 signatories from all sectors. The Charter bestows advantages and obligations on both the beneficiary

and the grantee in order to emphasize the importance of balance between the two. Admical promotes a new calling in corporate giving, highlighting the added value of partnerships between corporations and beneficiaries motivated by shared ethics and values.

France is one of the rare European countries allowing the deduction of corporate donations from the actual tax due (*l'impôt sur les sociétés*), rather than from the income on which tax is calculated.



The 2011 Admical laureates of their "Oscar du mécénat" including Fondation Culture et Diversité, Fondation Accenture, Fondation Schneider Electric, Enea Consulting, and Fondation Vinci.

Tax benefits are commonly provided to private schools and jurisdictions regulate their commercial activity in various ways.

Private or commercially oriented schools pose a unique set of regulatory issues because they are entities that engage in profit-seeking behaviors (charging tuition) in order to provide a service (education) that also creates a universally agreed-upon public benefit. Thus, jurisdictions apply different types of regulations to private schools. These regulations tend to be similar and linked to the jurisdiction's general rules on engaging in commercial activities. Nevertheless, 82% of the surveyed jurisdictions provide some type of tax benefit to private schools. Within that percentage, there exists considerable variance in how "charitable status" and tax benefits are regulated.

WHILE SOME JURISDICTIONS AUTOMATICALLY DISQUALIFY PRIVATE SCHOOLS, OTHERS IMPOSE LITTLE OR NO RESTRICTION ON THEIR COMMERCIAL ACTIVITIES.

A few of the surveyed jurisdictions automatically exclude private schools from charitable designation and/or tax benefits based on their engagement in commercial activities. For example, Germany automatically excludes private schools, colleges, and universities that engage in profit-seeking activities from qualifying as "charitable organizations."

By comparison, a few jurisdictions did not impose any special regulations or tax rules on private schools engaged in commercial activities. For example, the Netherlands and Russia do not place any such restrictions, nor do they tax them differently than other charitable organizations. China includes private schools as qualifying organizations, exempting them from their rule against inurement, since "...the founders of a private school are permitted to receive a 'reasonable return' on their investment."

MOST JURISDICTIONS REGULATE PRIVATE SCHOOLS THROUGH INCOME THRESHOLDS, SPECIAL TAX RULES, OR OTHER RESTRICTIONS.

- **Income Thresholds.** Japan includes Private School Corporations among its qualifying organization types, but restricts for-profit activities to less than 50% of total costs, a rule that is also applied to private schools. (The costs related to public interest activities must account for 50% or more.) Under Japanese tax law, revenues from for-profit activities are subject to corporate tax, even if the activities are deemed to be in the public interest.
- **Special Tax Rules.** Some jurisdictions apply separate tax rules for a private school's "for-profit" and "not-for-profit" activities. In such cases, organizations are required to keep separate books of account and apply a separate set of tax rules for each. For example, France and Italy do not exclude private schools as qualifying institutions, but do require them to pay corporate income tax on any profits.
- **Other Restrictions or Requirements.** Mexico allows private schools to qualify as charitable organizations, but stipulates that they must meet the terms of the General Education Act, have teaching as their main purpose, and receive a substantial portion of revenue from funds furnished by the federal government, states or municipalities, donations, or the attainment of corporate purposes. Brazil does not automatically exclude private schools from obtaining charitable status, but it does expressly forbid for-profit activities to be mixed with not-for-profit activities. Therefore, a private school may charge tuitions to the extent that all profits are reinvested in the school's objective and the requirements are set forth in its chartering documents.

"We pride ourselves in managing locally, allowing different regions to directly respond to their specific needs, but as a company we need a standard that allows us to easily show what we as a company have done for societal causes.

For this, we need a standard that allows us to capture everything that we do, from employee volunteering to our largest corporate commitments."

RADOBANK INTERNATIONAL
(THE NETHERLANDS)

Political participation does not automatically disqualify charitable status, but some jurisdictions restrict partisan endorsements and campaign financing.

In the majority of surveyed jurisdictions, organizations do not risk losing their charitable designation or tax-exempt status if they sponsor or engage in activities that support the general political process of their respective governments, including participation in advocacy activities. However, some jurisdictions place restrictions on certain types of partisan-based political activities, such as endorsing candidates or political parties or using organizational funds to make financial contributions to campaigns. Violations of the laws and regulations controlling political activities can result in the loss of tax benefits, charitable status, or both.

Some jurisdictions reported that the types of political activities in which an organization engages must be directly related to its stated mission or purpose. In Brazil, for example, it is not a disqualifying event if a public benefit organization supports the democratic process or provides general political education, with the caveat that "...the practice should observe the limitations inherent to the destination of resources."

In Germany, a charitable organization is allowed to comment on politics related to its public benefit purpose and is also able to communicate with legislators about proposed legislation without losing tax-exempt status. Canada's Income Tax Act seeks to limit nonprofit political activity to "... activities (that) are 'ancillary and incidental' to the organization's primary activities," and "do not include the direct or indirect support of, or opposition to, any political party or candidate for public office."

⁴ China allows for direct financial support of specific groups, including trade unions and certain affiliated organizations of the Chinese Communist Party.

MORE THAN HALF OF JURISDICTIONS PERMIT ENDORSEMENT OF POLITICAL PARTIES, MOVEMENTS, OR ELECTION CAMPAIGNS.

Fifty-nine percent of the surveyed jurisdictions permit charitable organizations to endorse political parties, election campaigns, and candidates for office; doing so does not jeopardize their charitable or tax-exempt status. In Italy, endorsement activities do not impact charitable qualifications unless the organization is "...a mere instrument of the political party" or organized for specifically political purposes.

The remaining 41% of jurisdictions prohibit endorsement activities. Mexico prohibits any activities related to political campaigns or to the development and distribution of propaganda, as well as activities specifically aimed at influencing legislation.

MORE THAN HALF OF JURISDICTIONS PROHIBIT FINANCIAL SUPPORT TO POLITICAL PARTIES OR ELECTION CAMPAIGNS.

Fifty-three percent of the surveyed jurisdictions prohibit charitable organizations from financially supporting political parties or election campaigns with organizational assets. Doing so will result in the loss of charitable status.

- In **Russia**, charities are expressly prohibited from using their assets to support political parties, movements, and campaigns. Although Russia allows charitable organizations to endorse political parties and/or election campaigns, Russian law does not permit these organizations to provide financial support to either.
- **Canadian** law does not allow direct or indirect financial support of partisan activities and prohibits financial contributions to political parties or election campaigns.
- In **India**, all not-for-profit entities are forbidden from engaging in political activity surrounding an election, including financial support to political parties or election campaigns.

Forty-seven percent of jurisdictions permit charitable organizations to provide financial contributions to political parties or candidates. South Korea, Switzerland, Australia, China⁴, France, and the Netherlands all permit contributions to political parties or election campaigns without disqualifying them.

SOME JURISDICTIONS HAVE LITTLE OR NO LIMITATIONS ON THE TYPES OF POLITICAL ACTIVITIES IN WHICH CHARITABLE ORGANIZATIONS MAY ENGAGE.

Though the minority, some jurisdictions do not place any restrictions on the types of political activities in which charitable organizations may engage. Some jurisdictions, such as Australia, France, and the Netherlands, even include political activities among those that qualify organizations as "charitable."

- In **Australia**, there are no expressed limitations on the engagement in political activities by qualifying organizations (including endorsements and financial support to political movements), but such organizations must provide additional disclosure to the tax authorities, including full disclosure of any political activities or expenditures as well as gifts received that enabled political expenditures.
- **France** allows some political parties to qualify as non-governmental organizations (NGOs). In addition, public utility associations and foundations may engage primarily in political activities.
- The **Netherlands** places no restrictions on the political activities of charitable organizations.

Monetary contributions are the most commonly claimed form of charitable donations and almost always result in a tax deduction.

Across the surveyed jurisdictions, the most widely used and accepted donation method is a monetary (or cash) donation. With the sole exception of Russia, each country's cash donations result in a tax deduction for the corporate donor. Country-by-country information on tax deduction availability is found in Figure 11.

TAX DEDUCTION LIMITS FOR CASH DONATIONS VARY SIGNIFICANTLY ACROSS JURISDICTIONS.

A complete list of maximum deductions for the seventeen countries analyzed is listed below. The results demonstrate that tax deduction thresholds vary significantly across jurisdictions, ranging from allowing no deduction (Russia) to having no limitations on the amount of donations that can be claimed for a tax deduction (Australia and the United Kingdom). The deduction limits shown below represent all contribution types, of which monetary contributions are the most common.

- Russia (No benefit)
- France (0.5% of taxes owed)
- Italy (2% of taxable income)
- Brazil (4% of taxable income)
- Mexico (7% of taxable income)
- India, the Netherlands, South Korea, Spain, and the United States (10% of taxable income)
- China (12% of taxable income)
- Germany and Switzerland (20% of taxable income)
- Japan (40% of taxable income)
- Canada (75% of taxable income)
- Australia and the United Kingdom (No limit)

FIGURE 11: DONATION TYPE TAX DEDUCTION BY COUNTRY

COUNTRY	CASH	PROPERTY	SERVICE
Australia	X	X	
Brazil	X	X	
Canada	X		
China	X	X	
France	X	X	X
Germany	X	X	X
India	X		
Italy	X	X	X
Japan	X	X	X
Mexico	X	X	
Netherlands	X	X	X
Russia			
South Korea	X	X	
Spain	X	X	
Switzerland	X	X	X
United Kingdom	X	X	
United States	X	X	

Source: Regulatory Environment Survey

MOST JURISDICTIONS REQUIRE PROPER DOCUMENTATION AND REPORTING TO SUBSTANTIATE MONETARY DONATIONS.

About 82% of the jurisdictions require some sort of proof of donation in order for the corporate entity to receive a tax benefit. In Japan, corporate donations are substantiated with receipts listing reference numbers and providing evidence that the contribution rendered was relevant to the activity of the organization. To receive a tax benefit in South Korea, the donor must request a donation receipt as evidence of the donation; the issuance of the receipt assures the donor that the donation is tax-deductible. Additionally, donated

cash must be used to further the goals, interests, and objectives of the recipient organization in order for the donor to receive a tax benefit.

Some jurisdictions require monetary donations to be reported on separate tax forms. For example, Mexican tax authorities require the use of a special form called a “Multiple Informative Return,” which details information about donors, donations, and their corresponding recipient organizations. Spain uses a different procedure than other jurisdictions. Instead of requiring corporate donors to report donations, Spain requires recipient organizations to file special paperwork with tax authorities.

SPOTLIGHT ON RUSSIA

Unique Regulation: The Effects of No Tax Deduction

CONTRIBUTOR:



At Russia's Donors Forum, we have been studying and helping

companies to improve their philanthropy programs for over ten years. Our mission is to enhance the effectiveness of organized grantmaking that aims to support the development of a democratic society in Russia. Each year, we coordinate the "Top Corporate Philanthropist Award."

One phenomenon of modern Russian philanthropy is the proportion of corporate contributions; corporate giving is more than four times the level of individual giving. Our data shows that philanthropic giving in Russia is 80% from the corporate sector and 20% from individual donors. These figures contradict traditional western patterns—all the more so because there are no tax deductions for corporate giving in Russia.

A corporate deduction did exist from 1996 until 2002, but the government eliminated it, owing to alleged violations and misuse. The debate on whether to bring back such tax breaks has been a lively one ever since. Most experts see it as an incentive, especially for small and medium-sized companies, to be more involved in philanthropy. But some companies do not agree: they say the breaks, in reality, will come with the burden of being required to report more rigorously on their operations. Government officials oppose the idea of introducing any tax incentives for philanthropic giving—especially by the business sector—due to a general suspicion that corporate taxpayers will violate the intentions of such incentives, thus decreasing government income.

There is little public appreciation of corporate philanthropy in Russia. This lack of recognition is compounded by a general national mistrust toward businesses. Still, corporations are working harder and harder to develop philanthropy in the country, owing to the Soviet tradition of supporting social infrastructure in communities where businesses are active and to a pragmatic understanding of the necessity to build a stable life for employees. Other incentives include wanting to meet the requests of foreign investors and a general willingness to contribute to the country's future.



Winners of the Top Corporate Philanthropist Award gather at the Donors Forum annual ceremony, November 2011.

Philanthropic giving in Russia is 80% from the corporate sector and 20% from individual donors. These figures contradict traditional western patterns.

Property and product contributions are common and usually result in a tax benefit for corporate donors.

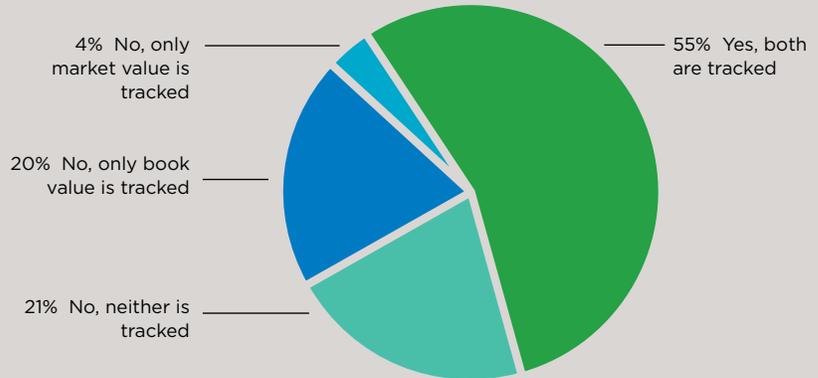
In 82% of the surveyed jurisdictions, property and product (or in-kind) contributions are a common form of donation and can be claimed as a tax deduction. Only three jurisdictions—Canada, Russia, and India—do not offer tax deductions to corporate donors for property and product contributions. Many jurisdictions do not require the donation to be reported or disclosed separately from the financial statement, and how property and product contributions are claimed is often discretionary to the corporate donor, though most donors tend to report them as a cost or business expense.

ACROSS JURISDICTIONS, THERE ARE THREE COMMON METHODS OF VALUING PROPERTY AND PRODUCT DONATIONS: MARKET VALUE, COST, AND BOOK VALUE.

- **Market value** (also called “fair market value”) is the most common method of valuation across the surveyed jurisdictions. Market value is defined as the price that a particular item of property or product would sell for in the open market. It is the price that would be agreed on between a buyer and a seller with neither being required to act and both having reasonable knowledge of the relevant facts about the item for sale.⁵ Because there is no single formula that always applies when determining the market value of a property or product, market value is generally difficult to measure and sometimes requires a qualified, independent, third-party appraisal.
- **Cost valuation** is defined as the price that a company paid for an item, what it was worth when the company acquired it, or what it cost the company to manufacture it. Cost valuation stays constant over time; it does not fluctuate, like market value.
- **Book value** (also called “carrying value”) refers to the value of an asset as it appears on an entity’s account-

FIGURE 12: PRACTITIONER RESPONSE, PRODUCT VALUATION

Does your company track both the book and market value of property and/or product donations?



Source: Public Comment Period, Spring 2012, N=51

ing books. Book value is the initial cost of the asset, less its depreciation over time. Additionally, book value is not affected by economic or industry conditions, since depreciation is formulaically calculated.

A MAJORITY OF JURISDICTIONS USE MARKET VALUE FOR VALUING PROPERTY OR PRODUCT DONATIONS, AND MOST DO NOT REQUIRE INDEPENDENT APPRAISALS.

Fifty-nine percent of the surveyed jurisdictions use market value for valuing property and product donations, while 41% use other valuation methods. Germany uses book value and Italy requires the donor to value the product or property at either cost or market value, whichever is lower. Brazil and the Netherlands leave valuation to the discretion of the corporate donor; but acknowledge that market value is the most common type of calculation used. In some cases, valuation depends on whether the company is donating its own manufactured products or whether the donation consists of property or products purchased by the company.

Most jurisdictions that use market value do not require independent appraisals of property and product contributions. An appraisal is usually a document created, signed, and dated by a qualified appraiser in accordance with generally accepted appraisal standards within the domestic jurisdiction; it also includes information required by tax authorities for determining the value of the property or product donated.

Only three jurisdictions—Australia, China, and the United Kingdom—specifically require corporate donors to have property and product contributions independently appraised by a third party; however, some of those who don’t require independent appraisals recommend them for the purpose of substantiating the tax deduction, or in cases where the corporate donor manufactures the donated property. In Japan, there is no specific requirement for the valuation of property donations.

⁵ *Determining the Value of Donated Property:* <http://www.irs.gov/pub/irs-pdf/p561.pdf>

Service (pro bono) contributions are the least common type of tax exemptions offered or claimed.

Service contributions (also called pro-bono services) are the donation of professional services to charitable organizations. Pro-bono services require a formal commitment between the donating company and recipient and the services must be professional service for which the recipient would otherwise have to pay. Examples of service donations include:

- An attorney who provides free legal counseling to underprivileged communities.
- A commercial web developer who designs a website for a nonprofit organization.

- A supply chain manager from a manufacturing firm who redesigns the supply chain management of a nonprofit hospital seeking to improve the efficiency of its medical equipment delivery.

Across jurisdictions, service donations are the least common type of donations claimed for tax benefits. Only 35% of the surveyed jurisdictions consider service or pro-bono donations as eligible for a tax deduction. Notably, in most jurisdictions staff salaries are a deductible business expense, significantly complicating the question of service donations' deductibility.

Many jurisdictions do not have clearly defined laws addressing the valuation and tax deductibility of service donations. Of the jurisdictions that do offer a tax benefit, most value the donations at the market rate for comparable services, i.e., the average cost that a third party would charge to provide the same service. Other jurisdictions allow different valuation methods. For example, France and the United Kingdom permit companies to prorate an employee's salary to the time spent serving a qualifying organization in order to determine the deductible donation.

SPOTLIGHT ON BRAZIL

A Unique Contribution Type: Mandatory Giving

CONTRIBUTOR:



Comunitas was founded by Dr. Ruth Cardoso in 2000. The organization's objective is to

bring together different sectors of society to promote the social development of Brazil. Each year, Comunitas undertakes a study of corporate social investment called Benchmarking in Corporate Social Investment (BISC).

A distinctive feature of corporate philanthropy in Brazil is the influence of government requirements to give. There is not one major federal requirement for companies to make contributions. Instead, different compulsory requirements apply from the federal, state, and municipal level depending on the activities, contracts, and licenses of the company. In some cases, the term "environmental compensation" is used to describe these contributions. The legislation requires corporations to imple-

ment actions focused on mitigating the environmental and social impacts of its activities, including donating funds.

To study this, an important new feature was introduced to the BISC survey in 2010. A complementary analysis of previously unpublished data on social investments made as a result of Brazilian legislation was added to the current profile of voluntary social investments.

The majority of companies that provided their information for 2010 performed mandatory investments in the communities. Moreover, the amount of funds invested on a mandatory basis is greater than their voluntary investments (51% mandatory, 49% voluntary). The focus area of these investments shows a strong majority in one category: 58% of mandatory investments were distributed within the environment field. The second-highest category is community development,

with 12%. The remaining 30% went to other causes. Most of these companies' actions are directed to the same communities served by their voluntary projects.

Each year, Brazilian companies demonstrate a greater commitment to social causes, evident in the increase of both their voluntary and mandatory investments. The findings and recommendations presented in the 2011 BISC Report may contribute to even more participation by the private sector in the social field.

Audience members listen as the results of Comunitas's latest BISC report are presented in December 2011.



Bilateral and multilateral agreements are used by some countries to facilitate cross-border giving.

Cross-border giving is giving made by a corporate headquarters in a jurisdiction foreign to its headquarters country. Fifty-three percent of the surveyed jurisdictions have at least one tax treaty or other mechanism in place that allow corporate donors to receive tax deductions for contributions to specified organizations outside their national borders.

Some jurisdictions have bilateral agreements—agreements with a foreign country, facilitating cross-border giving between the two—and have established exclusive laws and regulations for these transactions. For example, Australia, Canada, and Mexico have reciprocity agreements with the United States through individual tax treaties.

Some European Union (EU) countries have established multilateral reciprocity agreements with other EU countries as well as member countries of the European Economic Area (EEA) Treaty, which includes Iceland, Liechtenstein, and Norway. However, not all EU countries have taken steps to adopt such agreements because, this process requires changes to domestic laws and regulations that affect tax rules regarding charitable giving. For example, the Netherlands acknowledges general tax treaties and the EU Treaty; however, Dutch tax authorities have not yet adopted legislation that provides for cross-border giving.

IN THE ABSENCE OF TAX TREATIES, SOME JURISDICTIONS ALLOW RESIDENT FOREIGN CORPORATIONS TO ESTABLISH FOUNDATIONS.

Some jurisdictions do not have bilateral or multilateral agreements in place, nor do they value any contributions to foreign-based organizations as a tax-deductible expense. As a result, multinational corporations that conduct operations in more than one country typically organize corporate foundations in order to facilitate giving in foreign jurisdictions where they have established a corporate office.

This enables the corporations to give locally from each country office in order to take advantage of more favorable local regulations and tax benefits associated with donations. The corporate foundation is usually a trust or limited liability corporation with the objective of furthering charitable purposes for the public benefit; the foundation also aims to facilitate donations to qualifying organizations in a corporation's country of operation while affording the corporate donor a favorable tax status.

JURISDICTIONS DIFFER IN HOW THEY REGULATE AND TAX CROSS-BORDER CONTRIBUTIONS.

Most jurisdictions have specific reporting rules for the three different contribution categories that are generally the same for both domestic and cross-border contributions. For the most part, cross-border monetary and property donations are usually valued and reported as expenses, but vary on which financial form they use to report them. Since service donations are generally uncommon, even for domestic contributions, many countries do not have specific guidelines for how to report them when they are provided across borders.

A majority (65%) of the surveyed jurisdictions allow tax deductions for corporations that make cross-border donations, but apply different regulations for accessing tax deductions. Of those, about half (Canada, France, Germany, Mexico, the United Kingdom, and the United States) stipulate that contributions can be made only within jurisdictions where a bilateral or multilateral treaty is in place. Those jurisdictions that allow cross-border donations in the absence of a treaty apply strict regulations to cross-border contributions:

- **Australia** requires foreign incorporated companies to register with the Australian Securities and Investment Commission by completing a form, paying a fee, and filing a constitution and foreign incorporation papers. In addition, foreign entities that earn income in Australia may be required to register under Australian taxation regulations.
- In the **Netherlands**, domestic corporate donors can receive a tax benefit when donating to foreign foundations as long as the Ministry of Finance considers the beneficiaries to be qualified recipient organizations.
- **South Korea's** Ministry of Finance can designate certain offshore organizations as being in the public interest, supportive of non-resident Koreans, and helpful to South Korea's international public relations. In addition, South Korea's tax law states that donations to foreign organizations for natural disaster relief can be deducted at a 50% limitation.

NEXT STEPS: IN YOUR HANDS

THE TRANSFORMATIVE POWER OF MEASUREMENT

The *Global Guide* is the foundation for something much greater. By creating a shared language for measuring and reporting global philanthropy, the first step toward data collection that will enable true comparison and analysis is complete. Answering key questions—“What counts?,” “What’s your company doing?,” and “Where does your company fit?”—requires a group effort. With each answer based in standards established by the *Global Guide*, companies improve their policies for addressing global societal issues.

기업기부

Mécénat d'Entreprise

عطاء الشركات

Investimento Social Corporativo

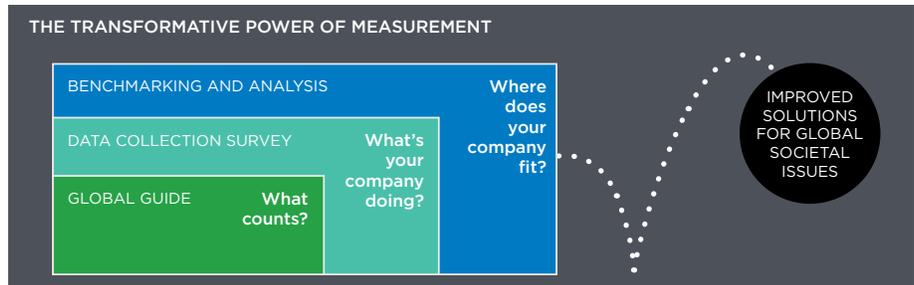
कॉर्पोरेट परोपकार

Next Steps

ADVANTAGES OF AN INTERNATIONAL STANDARD

The potential advantages of the *Global Guide* are manifold. Most directly, the guide will benefit corporate giving professionals who use its new framework to collect and report on their own companies' global contributions. The *Global Guide* will also equip such professionals with new methodologies in support of resource allocation and strategy discussions. Practitioners weighed in on these benefits as shown in Figures 13 and 14.

Corporate philanthropy stakeholders, too, stand to benefit from the *Global Guide*, particularly the increased transparency it encourages by making trend analyses more publicly available. There is also significant potential for the guide to enhance coordination among grantmakers with overlapping funding priorities. The industry can track and talk about collective impact on shared international causes. In short, rallying around a single standard will result in a meaningful representation of how corporations are improving the world.



THE INDIVIDUAL CORPORATE PRACTITIONER WILL BE ABLE TO:

- Contextualize company changes within broader global trends.
- Ensure alignment of activities and priorities.
- Apply a common, efficient, and meaningful language to discussions of company-wide initiatives addressing global issues.
- Identify other companies working on similar issue areas or within the same region, thereby encouraging collaboration.
- Promote improved tracking and metrics by dispersing the *Global Guide* and requiring that data and reports be based in its new international standard.
- Cite global data in presentations to senior leadership and the board of directors, in order to make the case for increased funding, new or improved programming, and advocating more efficient grant management.
- Present a more transparent understanding of reported figures to all stakeholders.

“While the scope of our giving is large, it becomes difficult to track the monetary value of certain types of donations as aggressively as we’d like to.

Having a way to align our giving efforts regardless of where they are allocated will do more toward achieving a larger, common goal.”

INFOSYS LIMITED (INDIA)

THE CORPORATE CONTRIBUTIONS FIELD WILL BENEFIT FROM:

- The participation of more multinational companies in an internationally founded benchmarking process.
- A larger data repository for comparative analysis across countries.
- More accurate giving reports, with richer context.
- Greater momentum driving the establishment of additional consensus-driven, international measurement tools.

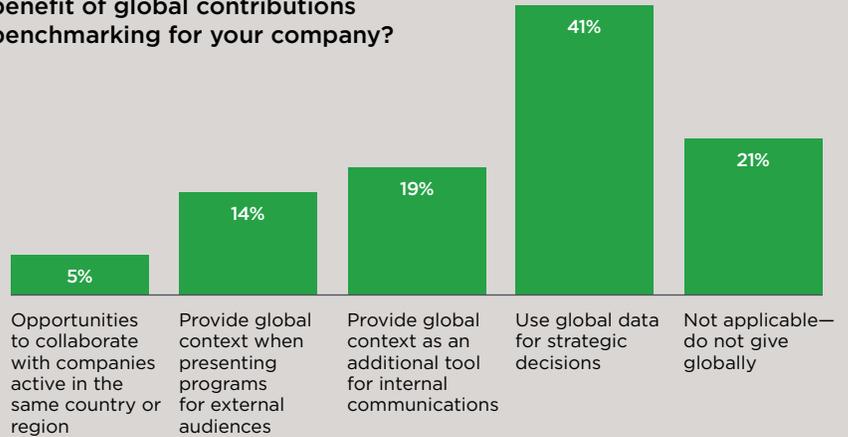
A WORTHWHILE INVESTMENT IN MEASUREMENT

Instating a new global standard in any field requires the investment of key resources and a commitment to effecting a major transition in mindset and operations.

In the public comment period part of the study, companies were asked to identify barriers to compiling a total global giving number. This question was also asked on the annual Corporate Giving Standard (CGS) survey; approximately 130 companies responded. Interestingly, 11% of such companies reported that they currently experience “No Barriers” in reporting a total global giving figure. This, of course, is the goal: breaking down all barriers to a confident and efficient reporting process. As for the companies who did report challenges: the most commonly cited barrier was “Lack of Technology,” with 20% of companies reporting that

FIGURE 13: BENEFITS OF BENCHMARKING

What is the number one benefit of global contributions benchmarking for your company?



Source: CECP Corporate Philanthropy Summit, Attendee Poll, June 2012, N=102

FIGURE 14: THE MOST EFFECTIVE BENCHMARKING

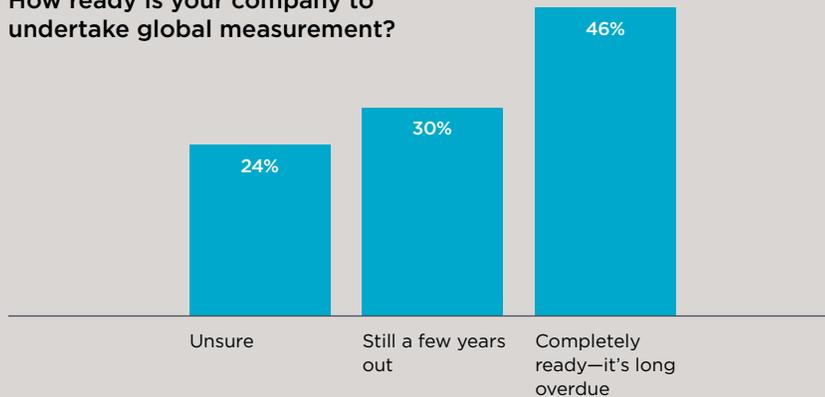
What factor would make global benchmarking and analysis most effective for your company?



Source: CECP Corporate Philanthropy Summit, Attendee Poll, June 2012, N=106

FIGURE 15: COMPANY READINESS

How ready is your company to undertake global measurement?



Source: CECP Corporate Philanthropy Summit, Attendee Poll, June 2012, N=105

“there are multiple software systems to track this data that are not connected.” “Lack of Consensus” received the second-highest response rate, with 14% of companies reporting that “there is no internal consensus as to what to include/exclude from that number.”

Naturally, each company’s internal processes will be unique. One of the next steps for users of the *Global Guide* is to compile and share strategies for these processes—beginning with the best practices of that 11%. Companies are urged to join this conversation by contacting CECP staff directly.

ONWARD

The *Global Guide* criteria represent corporate philanthropy’s first step toward unlocking a shared language for global giving benchmarking and analysis. Achieving this objective will enable companies and other philanthropic agents to develop more effective collaborations and maximize philanthropy’s impact. It is now up to the global corporate giving community to harness this resource by participating in forthcoming global data collection. So many companies are ready. CECP looks forward to making the journey with you.

“Our company has operations in more than 50 countries and more than half of our employees work outside of the U.S. Given this, it is very helpful to have a consistent way to view benchmarking data on giving trends by other companies around the globe.

We believe this adds to our effectiveness as a corporate citizen everywhere that we have facilities.”

GENERAL ELECTRIC (USA)

Acknowledgements

This report, *Developing the Global Guide to What Counts* and its companion piece, *The Global Guide to What Counts*, are the products of many hard-working companies, organizations, and individuals. CECP is proud to have received the assistance of Deloitte in the undertaking of this project.

DELOITTE, CONSULTANT

The cross-functional Deloitte team contributing to this project demonstrated excellence, aptitude, and dedication throughout. Deep appreciation is extended to all who contributed. Specifically, from the Deloitte member firm in the United States, Malva Rabinowitz (Deloitte Consulting LLP) and Erin Scanlon (Deloitte LLP) served as leaders for Deloitte on the project, joined by Mitch Weiss (Deloitte Tax LLP) and Chase Smerdzinski (Deloitte Tax LLP) from International Tax Services.

CECP

This project would not exist without the vision and leadership of Executive Director Charles Moore. Margaret Coady, Director, provided instrumental expertise, direction, and guidance for the project and the production of both the *Global Guide* and this report. Carmen Perez, Senior Research Analyst of Global Valuation, also serves as Project Manager for the Global Corporate Giving Initiative.

ADVISORY GROUP

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 Comunitas (Brazil)
 Fosun International (China)
 GE (United States)
 Hitachi (Japan)
 Pfizer (United States)
 Royal Bank of Canada (Canada)
 Social Venture Group (China)
 Woolworths (Australia)

CONTRIBUTORS

We extend much gratitude to those who took the time to review the proposed global valuation guidance and weigh in on the content during our public comment period. Eighty comments were submitted, with approximately 80% coming from companies and 20% from non-governmental organizations. Contributors represented North America, South America, Asia, and Europe, and included but were not limited to: Admical, Agilent Technologies, Alcoa Inc., APCO Worldwide, Business for Social Responsibility, CAF-Russia, Centro Mexicano Para la Filantropía, Colgate-Palmolive Company, Comunitas, Corning Incorporated, Dell, The Dow Chemical Company, Dynamic Logistics, Dynamo/KME, Fondazione San Patrignano ONLUS, General Electric, General Mills, Give2Asia, Hitachi, Honeywell, Infosys Limited, Japan Center for International Exchange (JCIE/USA), Kimberly-Clark Corporation, KPMG, Macquarie Group Foundation, Merck, Natixis Global Asset Management, Newman's Own Foundation, Orange Foundation, Pfizer, Pro Bono Lab, Radobank International, Renova Group, Russian Donors Forum, Samsung Electronics America, Siemens, Taproot Foundation, United Technologies Corporation, Wal-Mart Stores, Inc., and Zurich Financial Services.

GLOBAL GUIDE WORKING GROUP

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COMPLEMENTARY CORPORATE GLOBAL GIVING ORGANIZATIONS

The following organizations do extremely important work to make significant contributions to the field of global corporate giving. Each is a superb resource for companies wishing to become even more active internationally:

- United Nations Global Compact
- Worldwide Initiatives for Grantmaker Supports (WINGS)
- TechSoup Global
- Taproot Foundation
- Sampradaan Indian Center for Philanthropy
- The Philanthropic Initiative
- King Baudouin Foundation
- The International Centre for Nonprofit Law
- Global Philanthropy Forum
- Give2Asia
- European Foundation Centre, AISBL
- Donors Forum
- The Council on Foundations: Global Grantmaking Institute
- The Council on Foundations: United States International Grantmaking (USIG)
- The Conference Board Research Working Group: Corporate Philanthropy With a Global Footprint
- Charities Aid Foundation
- Admical

“The key criteria in CECP’s Global Giving Initiative are highly aligned to our internal policies, allowing us to better benchmark where we stand as compared to other companies headquartered around the world.”

RENOVA GROUP (RUSSIA)

Regulatory Environment Survey (RES) Sample Questions

The Regulatory Environment Survey (RES) included approximately ninety questions. Below is a sampling, organized by section titles.

DEFINING CHARITABLE ORGANIZATIONS

What types of not-for-profit, non-governmental organizations exist in the country?

Is there an agency within your country that defines Charitable Organizations?

If so, please reference the agency. (Is this determination solely or partially based on laws and regulations enacted at the national or subnational (i.e., local level of the country?)

To be considered a Charitable Organization, must the nonprofit organization have been organized or operate exclusively for one or more specified purposes? Please describe such purposes.

What types of activities prevent an organization from becoming a Charitable Organization or result in the disqualification of an otherwise Charitable Organization (a “Disqualifying Event”)?

Has a Disqualifying Event occurred if: Any portion of the Charitable Organization earnings inures to the benefit of any private shareholder, individual, or company? If not, to what extent may the earnings of the Charitable Organization inure to the benefit of any private shareholder, individual, or company?

If the Charitable Organization may engage in profit-seeking activities, are such profits subject to taxation and/or do they affect the Corporate Donor’s tax benefit?

Has a Disqualifying Event occurred if an otherwise Charitable Organization does not operate exclusively for the public benefit?

FINANCIAL REPORTING AND ADMINISTRATION

Please describe where cash and cash-equivalent donations to Charitable Organizations are reported on a Corporate Donor’s financial statements.

FINANCIAL AND REGULATORY REPORTING CONSIDERATIONS

Please describe how non-cash contributions are valued for financial reporting purposes.

FINANCIAL REPORTING VALUATION

Is a Corporate Donor required to obtain an independent appraisal of such property for financial reporting purposes?

TAX BENEFITS AND INCENTIVES

May a Corporate Donor obtain any tax benefits for donating cash or cash equivalents to a Qualifying Charitable Organization? If so, please advise regarding the type of benefit conferred (i.e., a deduction, credit, or other tax benefit).

CROSS-BORDER ISSUES: FINANCIAL REPORTING AND ADMINISTRATION

Please describe how property donations, including donating the temporary use of such property, to organizations that are not organized in, or residents of, the Corporate Donor’s country of incorporation are reported on a Corporate Donor’s financial statements.

May a Corporate Donor rely on a treaty or reciprocity agreement with another country as the basis for claiming some or all of the above-mentioned tax benefits?

ABOUT CECF

The Committee Encouraging Corporate Philanthropy (CECP) is the only international forum of business CEOs and chairpersons focused on raising the level and quality of corporate philanthropy. Membership includes more than 180 CEOs and chairpersons representing companies that account for more than 40 percent of reported corporate giving in the United States. For more information visit CorporatePhilanthropy.org.

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