

Tax Exemption – Associations

Authors: Maja Graf and Christa Camponovo, vitamin B

Associations are principally subject to taxation

In principle, associations are also liable to pay tax on their *profits and assets*. Where profits and assets are below a certain threshold (which differs from canton to canton), no tax is payable. Membership contributions are not included in taxable profits.

However, *upon application*, associations may be fully or partially exempted from taxes if they pursue a non-profit, public or cultural purpose. Taxation is levied at the location of the association's registered office. The *cantonal tax office* is responsible for tax exemptions.

Associations are *taxable for value added tax (VAT)* if their turnover exceeds CHF 100,000. In the case of sports and cultural associations that are managed on a voluntary basis as well as non-profit organisations (in terms of tax law), the respective threshold is CHF 250,000. VAT is excluded from tax exemption.

Please note:

- Tax exemption is not automatic and requires application to the cantonal tax office in all cases.
- Donations can only be deducted from tax if they are made to tax-exempt associations.
- Tax exemption does not apply to VAT.

Requirements for tax exemption

Legal bases

Art. 56 DGB (Federal Law on Direct Federal Taxes) and Circular No. 12 of the Federal Tax Administration.

Basic points

The following requirements must be met cumulatively (i.e. all of them) before tax exemption can be granted:

The association must be a legal entity. Associations pursuant to Art. 60ff. ZGB (Swiss Civil Code) are legal entities.

The tax-exempt activities must be directed exclusively towards a public purpose or the welfare of third parties. The objectives of the legal entity may not be associated with income

purposes or other private interests of the legal entity or its members. However, even tax-exempt associations may employ or engage individuals to fulfil their purpose.

A further criterion is the association's charitable character; it is required to make "substantial sacrifices". This includes the voluntary nature of the work performed by the board of directors. The latter's normal expenses may, however, be reimbursed. The voluntary nature of the board's work must be specified in the articles of association.

The funds dedicated to the tax-exempt purpose must be irrevocably and forever bound to tax-exempt purposes. This means that the distribution of moneys or material assets among founders or members must be permanently excluded. Upon dissolution of the association the assets must be transferred to another tax-exempt entity that pursues a similar purpose. This stipulation must also be recorded in the articles of association in the form of a respective irrevocable provision.

The requirements also include the actual implementation of the stated purpose. The mere recording of such activities in the articles of association is not sufficient.

Non-profit associations

Associations are deemed to be not for profit when their activities are mainly directed towards improving the welfare of *third parties* and do not serve the members' own benefit. Pure self-help organisations, professional associations or sport and leisure associations are not "non-profit" as defined by fiscal legislation.

The pursuit of the public interest is a fundamental requirement for tax exemption based on non-profit status. The common good can be promoted through activities in the charitable, humanitarian, healthcare, ecological, pedagogical, scientific and cultural fields. This includes, for instance, social work, art and science, education, promotion of human rights, cultural heritage protection, nature conservation, animal welfare and development aid.

The question whether a certain activity is in the interest of the public is judged according to the relevant public perception. The latter can be derived from legal-ethical principles, such as the Federal Constitution and Swiss laws and jurisdiction. The public interest is not limited to activities in Switzerland. Associations that are active abroad can also be exempted from tax provided their activities are in the public interest and are performed on a disinterested basis.

Public interest is only given if the group of those who receive the association's aid and support is principally unrestricted. A defined group of beneficiaries (e.g. restriction to family, members of the association, or members of a certain profession or a specific group of affected individuals) excludes tax exemption due to non-profit status.

Associations with a public purpose

Associations and foundations that take on responsibilities assigned to them by the community or receive substantial support from the community can be exempted from tax due to their pursuit of a public purpose.

Associations with a cultural purpose

Associations which cultivate a nationally recognised faith community (free churches) can also be exempted from taxation. However, donations made to such organisations are not tax deductible.

Applying for tax exemption

Applications for tax exemption due to non-profit status must be addressed to the cantonal tax offices, which provide information regarding the requirements and accept the applications.

There are no dedicated application forms. Applications should be sent by post in the form of written letters.

The articles of association, the founding record, annual reports and accounts and further documents relating to the association's activities must be enclosed with the application.

The responsible offices assess each individual application as to its compliance with the requirements. The processing of applications may take several weeks or months. In the case of a rejection, associations may request an appealable directive which is, however, subject to a fee.

Cf. "Model articles of association", www.vitaminb-e.ch/work_aids/

B-DUR on taxes (in German) www.vitaminb.ch/publikationen/b-dur/fachjournal-b-dur/