

*“Civil Society is the conscience of our countries. It’s the catalyst of change. It’s why strong nations don’t fear active citizens. Strong nations embrace and support and empower active citizens.”*  
—President Barack Obama

## **Fact Sheet: Non-Governmental Organizations (NGOs) in the United States**

The United States firmly believes that a robust civil society - independent of state control or government involvement- is necessary for democracy to thrive. From the earliest days of U.S. history, civil society organizations have played a key role in protecting human rights and advancing human progress. As President Obama has said, civil society is a source of all-encompassing ideas, promoting everything from transparency and free expression, reversing inequality, and rescuing our environment.

Civil society in the United States encompasses a broad range of organizations that allow individuals to achieve their social, economic, and political aspirations by organizing themselves, unhindered, according to their own interests, needs, and priorities. We are committed to the idea that the public interest is served best when private citizens and members of civil society are able to choose freely the aims, organizations, and causes they support.

Accordingly, U.S. regulations that impact civil society organizations are designed to facilitate and support the formation of non-governmental organizations (NGOs). U.S. regulations are designed, specifically, to avoid making judgments about the value or work of any given NGO. U.S. and international NGOs represent virtually every conceivable ideology, political cause, religion, social issue, and interest group. Some are deeply engaged in the political process; others are nonpartisan, operate far from the political process, and are involved only in social issues.

The following overview explains how NGOs operate in the United States, and how they are regulated.

### **What is Civil Society?**

Civil society is the collection of social organizations, formed voluntarily by citizens to advance shared goals or interests. This includes independent public policy research organizations, advocacy organizations, organizations that defend human rights and promote democracy, humanitarian organizations, private foundations and funds, charitable trusts, societies, associations and non-profit corporations. It does not include political parties.

### **Areas of Activity for NGOs in the United States**

Approximately 1.5 million NGOs operate in the United States. These NGOs undertake a wide array of activities, including political advocacy on issues such as foreign policy, elections, the environment, healthcare, women’s rights, economic development, and many other issues. They often develop and address new approaches to social and economic problems that governments cannot address alone. Many NGOs in the United States operate in fields that are not related to politics. These include volunteer organizations rooted in shared religious faith, labor unions, groups that help vulnerable people, such as the poor or disabled, and groups that seek to

empower youth or marginalized populations. Indeed, NGOs exist to represent virtually every cause imaginable. Their sources of finance include donations from private individuals (American or foreign), private sector for-profit companies, philanthropic foundations, or grants from federal, state, or local government. Sources of finance may also include foreign governments. There is no prohibition in U.S. law on foreign funding of NGOs; whether that foreign funding comes from governments or non-government sources.

## **Legal framework for NGOs in the United States**

### **Starting an NGO:**

In general, any group of individuals may come together to form an informal organization in order to jointly discuss ideas or common interests, and can do so without any government involvement or approval. If a group seeks particular legal benefits, such as an exemption from federal and state taxation, it may choose to formally incorporate and register as an NGO under the laws of any of the 50 U.S. states.<sup>1</sup> Individuals do not need to be U.S. citizens to create a new NGO.

Registration requirements, and forms of organizations, vary from state to state, but are generally very simple, so that anyone can incorporate an NGO in just few days at the state level. The process typically involves providing a short description of the organization, its mission, name, the address of an agent within the state, and paying a modest fee. Most states have a general incorporation statute that makes this process a routing matter, not subject to approval by the legislature or any other government official. This approach removes the risk that a government official might abuse his or her power in determining which organizations should be allowed to exist or not. In several states, certain NGOs formed for religious, educational and other charitable purposes must also register with a state charity official charged with protecting charitable assets and regulating the charitable solicitation of funds from the public.

### **Tax-exempt Status:**

Many NGOs in the United States are qualified as exempt from state and federal taxes. This legal status makes it easier for NGOs to operate as nonprofit organizations, because they do not have to pay tax on the income (funding) they receive. If an NGO wants to receive exemption from income taxation from the U.S. Federal Government, the NGO applies to the Internal Revenue Service. There are many types of NGOs listed in the Internal Revenue Code that are eligible for tax-exempt status, and the type of benefits available depends on the type of NGO and the type of activities conducted. In general, NGOs organized exclusively for educational, religious, charitable, scientific testing for public safety, literary purposes, and certain sports, that are non-

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<sup>1</sup> Not all NGOs in the United States are incorporated. It is remarkably easy to form a charitable entity in the United States. A person can create a charitable trust simply by executing and delivering a deed, contract, or other instrument conveying the trust property to another person (or even to herself) in trust for the charitable purpose. No government approval is required to form the trust beyond the standard requirements for signing a contract or deed conveying property, however many U.S. states require all NGOs formed for religious, educational or other charitable purposes to register with a state charity official, particularly if it will be soliciting funds from the public.

profit and do not play a partisan political role (e.g., by supporting candidates for election or attempting to influence legislation), can apply to receive exemption from federal income taxation on all income related to these purposes.

NGOs organized for political purposes receive limited tax exemptions only for income received from contributions solicited from the general public, membership dues, or fundraising events. State governments often use the same standards for applying state income tax laws. Organizations seeking exemption from state taxes generally must file applications for exemptions with the state tax authorities.

Another feature of tax-exempt status is that contributions to some of these organizations may be tax deductible for the donor. This provides an important incentive for citizens and corporations to donate funds to these groups.

It is important to note that the federal and state governments do not judge the value of an organization's specific activity or mission in determining that these organizations are eligible for tax-exempt status. The U.S. government, generally, does not seek to influence an organization's mission, determine how an NGO is structured, approve who runs it or serves on its board, or direct its financial management. Instead, U.S. law generally regulates organizations by requiring regular public disclosure – through filing of information returns with the government – of an organization's funding, activities, and leadership. The regulations do not allow government officials to revoke permission to operate or tax-exempt status based on judgments about the merits of an organization's mission, activities, budget, or leadership.

### **Freedom of Expression and Association in the United States:**

There is generally very little restriction on the freedoms of expression and association of NGOs under U.S. law. Although NGOs engaged in political activities may not qualify for the most preferential tax-exempt status, the U.S. government does not prevent NGOs from undertaking advocacy for political issues or criticizing the government. The U.S. constitution provides for robust protections for freedom of expression and leaves open space for debate that is necessary in democratic societies, including protecting ideas that offend, shock, or disturb.

The United States has many laws and regulations on issues, including immigration and visas, campaign finance and lobbying, terrorism financing, and money-laundering that may affect NGOs; however, these laws are applicable to everyone and to all organizations, not exclusively NGOs.<sup>2</sup>

### **Foreign NGOs in the United States**

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<sup>2</sup> Certain NGOs—charitable 501(c)(3) organizations in particular—may be subject to some operating restrictions, including IRS rules prohibiting self-dealing (transactions with organization insiders), and excessive compensation, limiting lobbying and political activities, requiring minimum distributions for activities, and restricting certain kinds of commercial or investment activities. In addition, state laws may impose governance restrictions, such as a minimum number governing body members or limits on the number of governing body members that may be compensated.

The United States hosts many foreign NGOs that do important and valuable work in our country. Foreign NGOs can register in the U.S. by filing a simple form as a non-profit entity. Some operate as non-partisan foundations, while others are affiliated with foreign political parties and operate as think tanks and liaisons to U.S. organizations concerned with foreign policy. These foundations organize programs for their respective politicians when they come to the United States, and organize conferences, youth exchanges, and fellowships/scholarships. They also provide funding to and conduct joint projects with American NGOs. Funded entirely by foreign governments, these foreign party institutes do not have special restrictions on their activities in the United States, can conduct meetings and publish materials freely, and are not required to provide reports to other U.S. federal government agencies, provided they register and file tax returns according to the requirements described below.

As President Obama said in New York in July 2014, — “Partnering and protecting civil society groups around the world is now a mission across the U.S. government.”

## **Regulation of Foreign Funding of NGOs and Foreign NGOs**

### **Foreign Funding of U.S. NGOs**

As a general matter, U.S. law imposes no limits or restrictions on the receipt of foreign funding by NGOs operating in the United States. Of course, laws that are generally applicable to all Americans may apply to NGOs, such as restrictions on receiving contributions from a terrorist organization. There are also restrictions on direct financial support of political candidates by foreign individuals.

### **Foreign NGOs Operating in the United States**

Before foreign organizations are able to conduct activities in any particular U.S. state, they must apply for a license to conduct business in that state. This process is similar to the incorporation process for U.S. NGOs described above. Like domestic NGOs, foreign organizations can apply to the Internal Revenue Service for recognition as charitable or social welfare organizations under the Internal Revenue Code. Although such organizations are exempt from paying taxes on their income, contributions to foreign organizations are not tax-deductible (in the absence of a special treaty providing otherwise with the country of the NGO's origin).

### **The Foreign Agents Registration Act, 22 U.S.C. § 611 *et seq.* (FARA)**

FARA is a disclosure statute which requires persons in the United States who are acting as agents of foreign principals, and engaged in certain specified activities, to make periodic public disclosure of their relationship with the foreign principal, as well as disclosure of activities, receipts, and disbursements in support of those activities. The general purpose of the Act is to ensure that the American public and its lawmakers know the source of certain information intended to sway U.S. public opinion, policy, and laws, thereby facilitating informed evaluation of that information by the government and the American people. The Act requires any person or organization (U.S. or foreign), that is an agent of a foreign principal, to register with the Department of Justice if engaged in the U.S. in certain defined activities, and to disclose the foreign principal for which the agent works, the activities conducted, as well as receipts and disbursements in support of those activities.

Foreign principals can include governments, political parties, a person or organization outside the United States (except U.S. citizens), and any entity organized under the laws of a foreign country or having its principal place of business in a foreign country.

An agent of a foreign principal is any person who acts within the United States “as an agent, representative, employee, or servant, or any person who acts in any other capacity at the order, request, or under the direction or control of a foreign principal or of a person, any of whose activities are directly or indirectly supervised, directed, controlled, financed, or subsidized in whole or in major part by a foreign principal,” and who engages in certain political or quasi-political activities.

FARA covers all “persons,” including individuals, corporations, and associations, but provides a number of exemptions from registration, including for persons whose activities are in “furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts.” FARA also exempts from registration certain other private and nonpolitical activities, such as certain solicitations of funds for medical aid, or for “food and clothing to relieve human suffering,” and exempts from registration persons accredited to international organizations who have notified the Department of State in accordance with the provisions of the International Organizations Immunities Act. Additional exemptions from registration are provided for diplomats and officials of foreign governments and their staffs properly recognized by the U.S. Department of State, persons whose activities are of a purely commercial nature, lawyers engaged in legal representation of foreign principals in the courts or similar type proceeding that does not involve influencing U.S. domestic or foreign policy, and those registered under the Lobbying Disclosure Act, 2 U.S.C. § 1601 *et seq.*

Some governments have erroneously asserted that FARA restricts political freedoms in the United States. On the contrary, FARA does not inhibit freedom of expression, does not regulate the content of information disseminated, does not place any limitations on the agent’s lobbying or publication of information or advocacy materials, and is neutral in its treatment of all countries. With regard to foreign funding, FARA imposes no limits or restrictions on the receipt of foreign funding by non-governmental organizations operating in the United States, nor does it impose a tax. The registration requirements under FARA are not tied to foreign government funding; rather, registration is required for those conducting certain activities at the request of or under the direction or control of a foreign principal, solely for the purpose of disclosure.

Additional information can be found on the FARA website located at: <http://www.fara.gov>.

### **NGO Relations on the Local and International Levels**

Once an NGO has registered, according to the requirements summarized earlier, the U.S. government does not interfere with how the NGO accomplishes its purposes. NGOs are free to recruit participants for their organizations as they wish, and need not provide notification to any government agency about its membership, activities, or outreach. Like other U.S. organizations and companies, U.S. NGOs must refrain from working with governments or individuals under U.S. Sanctions, as well as with groups designated as foreign terrorist organizations, but otherwise, they are free to collaborate with foreign NGOs or foreign governments to achieve their purposes. There are no regulations that restrict U.S. NGOs from attending conferences abroad, finding donors overseas, or performing work internationally.

Additional Resources

[Presidential Memorandum: Civil Society](#)

[President Obama at the Civil Society Forum](#)

[President Obama at the Clinton Global Initiative](#)

[Fact Sheet: U.S. Support for Civil Society](#)

[Secretary Kerry's Remarks at the Civil Society Forum Global Townhall](#)

[State of Rights- Inclusive Growth: The Role of Civil Society in Labor](#)

[Bureau of Democracy, Human Rights, and Labor](#)