

Public benefit organisations and social enterprises: types of support (1) 3/17/23



ESG Tax Practice, PwC Latvia
Alina Ruskova



Associate, PwC Legal
Karina Daugaviete

People often confuse the terms “public benefit organisation” and “social enterprise”, and there is no readily available explanation about advantages of having either status when it comes to attracting donations and grants. How a public benefit organisation operates makes it different from a company in the classic sense and from an entity with social enterprise status. This article explores the differences between these forms of business and how they can attract financial and other support.

What is a public benefit organisation (PBO) and a social enterprise (SE)?

Any organisation that carries on a business does so primarily for an identifiable commercial purpose: to make a profit by providing services or selling goods. Yet PBOs have a different purpose. Under section 3 of the PBO Act, PBOs are associations, foundations or religious organisations whose purpose is public benefit activity according to their articles of association, constitution or charter, which carry out public benefit activities, have been granted PBO status and use their income for activities of a non-commercial nature, subject to restrictions and exceptions specified by the PBO Act.

Section 2 of the PBO Act provides that public benefit activity is activity that significantly benefits society at large or any part of it, especially if this is geared towards charity, protection of human rights and individual rights, development of civil society, promotion of education, science, culture and health, prevention of disease, promotion of sport (including high-performance sport), protection of the environment, disaster and emergency relief, and improving the well-being of society, especially poor and socially vulnerable groups.

This implies that the activity of PBOs is closely linked with promoting public benefit. In other words, neither the purpose of operation nor the use of income in PBOs may be associated with commercial activity.

Under section 2 of the SE Act, an SE is a company with limited liability that carries on a business which creates a beneficial and significant social impact by employing target groups or improving the quality of life for social groups whose life is affected by matters of public concern (e.g. providing social, healthcare or education services, or manufacturing specialised goods) or by carrying out other socially significant activities that create a lasting positive social impact (e.g. building an inclusive civil society, supporting science, environmental protection and conservation, animal protection, and cultural diversity).

Tax relief for SEs

Under general procedure, Latvian companies are liable to pay corporate income tax (CIT) only if their profit for the financial year is distributed or if the taxpayer incurs expenses that qualify as deemed profit distributions for CIT purposes. Since SE status is granted to companies that meet the SE Act’s criteria, including the requirement that the company’s profits should not be distributed but should be reinvested to achieve the objectives set in its articles of association, the SE has no CIT charge to pay on profit distributions.

However, since CIT charges may arise on deemed profit distributions, the CIT Act and the SE Act provide for CIT relief, so the following items stay out of an SE's taxable base:

- Expenses incurred in holding events that are aimed at the recreation and social inclusion of the SE's target-group employees
- Expenses incurred in integrating target-group persons on the labour market and in improving their quality of life (e.g. expenses incurred in adapting their working environment or offering upskilling courses)
- Expenses incurred in buying assets that serve to achieve the goals set in the SE's articles of association (e.g. the acquisition cost of equipment for manufacturing specialised goods)
- Expenses incurred in holding events for social integration of target-group persons (e.g. expenses incurred in organising various creative activities, including concerts and camps)
- Donations made to PBOs for purposes matching the goals set in the SE's articles of association if the donee has, before the end of the financial year, provided the donor with information on how the donation is used

More details of SE target groups and support measures can be found in our Flash News edition of January 2022 [here](#).

In our next edition of Flash News we will be informing our MindLink.lv subscribers about other details of PBO and SE activities.