



# GIVING TO PAKISTAN:

## GUIDELINES FOR DONORS

### IN BRIEF:

1. Detailed policy of foreign funding has been provided by the Government which is available on the website of the Economic Affairs Division (EAD) for all NPOs involved in receiving foreign contribution. Donors outside Pakistan can only give foreign donations to NPOs having MOU with EAD.

2. Banking regulations have been aligned with the requirements of FBR and EAD in terms of disclosures of information to banks and for the operations of banking transactions of NPOs.

3. Promotion of safe charities and availability of the tax credits for the certified NPOs have always been considered and appreciated by the relevant Government agencies. Donors living outside Pakistan are eligible for tax credit if they donate to an NPO registered in Pakistan and/or have simultaneous registration in the USA or the UK. The procedure of submission of major documentary requirements has been supportive leading to availing of due benefits by NPOs.

4. In Pakistan, there are around 13 laws dealing with the registration and operation of local not-for-profits (NPOs) which provide guidelines and legal framework for operating in the social sector.



While Pakistan is home to many nonprofits (NPOs) in the world, giving to Pakistan has certain procedures and requirements that need to be met even by experienced grant-makers.

Pakistan is one of the fastest growing countries in the Asian region with a population of nearly 220 million people, and an estimated number of 49.5 million living in poverty<sup>1</sup>. These socio-economic conditions may account for the presence of an estimated 15000 to 20000 nonprofits<sup>2</sup> operating in the country. Almost 46% of NPOs work in education, and approximately 17% focus on civil rights and advocacy; the remainder provides social services in areas of health, relief, culture and recreation. This robust non-profit sector, combined with the presence of around 1.8 million Pakistani diaspora community in the US<sup>3</sup> and the UK are a driving force behind cross-border giving to Pakistan. The diaspora citizens who want to support charitable activities in Pakistan and receive a tax deduction have few options and policy procedures to consider for donations.

Pakistani Americans who want to support charitable/ welfare initiatives in Pakistan and receive a tax deduction have few options to consider: they may donate to a US-based nonprofit which has its program in Pakistan or use intermediary grant-maker to tax effectively support the organization or causes they value.

<sup>1</sup> Economic Survey of Pakistan 2018-19

<sup>2</sup> Securities & Exchange Commission of Pakistan (SECP), Provincial Departments of Social Welfare & Industries

<sup>3</sup> Ministry of Overseas Pakistanis & Human Resource Development, Government of Pakistan



Only a small percentage of Pakistani NPOs are legally able to receive foreign funding under the “Policy for Regulation of Organizations Receiving Foreign Contributions 2013”. Under this policy, Pakistani NPOs of all shapes and sizes must register with the Federal Government to legally receive foreign funding. In 2015, all International Non-Governmental Organizations (INGOs) were asked to register themselves with Ministry of Interior afresh.

**The policy was designed “to regulate foreign organizations and those national organizations which receive or intend to receive foreign contributions ... and for improved accounting of flow of funds outside the government and greater aid effectiveness...”<sup>4</sup>**

Given the expansive and complex nonprofit landscape, as well as the need to navigate the rules and regulations of both donor and recipient jurisdictions, as a donor and/or grant-maker, it is vital to have a comprehensive understanding of the local context, as well as the requirements and conditions impacting cross-border giving to Pakistan. Ensuring that your donation is made in full compliance with all relevant laws, and also has done due diligence on the nonprofit, will help provide satisfaction that your charitable donations is made to an appropriate organization which actually received it, and that it will be used for its intended purposes.

## Understanding the Local Context

In the context of cross-border donations, there are different laws that deal with registration and operation of local NPOs. These laws provide guidelines regarding the overall processes and requirements related to registration, administration, process of accountability and annual reporting of NPOs. In addition to that, for the purpose of national exchequer, such laws also prescribe details for the financial management and taxation. These laws recognize the aspect of public good i.e., Income Tax Ordinance 2001. Moreover, Securities and Exchange Commission (SECP) also outlines in detail guidelines for corporations who have established their CSR, for the promotion and enforcement of social causes, carrying out their CSR activities in Pakistan<sup>5</sup>.

Hence, overseas grants need to be legally compliant, tax-effective, safe and in-line with best practices and with anti-money laundering counter-terrorist financing regulations. As such, it is essential to be aware of the available legal structures of charitable entities under local laws.

NPOs can work according to their own constitution, memorandum, programs or by-laws as enshrined in their governing documents. Generally, these are developed with the consent and deliberations of the Board members in consultation with relevant legal teams. In Pakistan, Companies Act 2017 provides two step approach i.e., incorporation and registration for Section 42 Companies, especially in case of Corporate NPOs. Major laws involving registration of NPOs in Pakistan are the following:

- The Societies Registration Act, 1860
- The Trusts Act (II of 1882)
- The Voluntary Social Welfare Agencies (Registration and Control Ordinance 1961)
- The Companies Act, 2017
- The Religious Endowments Act, 1863
- The Charitable Endowments Act (VI Of 1890)
- The MussalmanWakf Validating Act, 1913
- The Charitable and Religious Trusts Act, 1920
- The MussalmanWakf Act, 1923

<sup>4</sup> [www.ead.gov.pk](http://www.ead.gov.pk) (NGOs Section: Policy for local NGOs receiving foreign contributions)

<sup>5</sup> Corporate Social Responsibility Guidelines 2013, available at: <https://www.secp.gov.pk/document/csr-guidelines/?wpdm-dl=18351>



- The Cooperative Societies Act, 1925
- The Mussalman Validation Act, 1930
- The Local Government Ordinance, 2001
- Income Tax Ordinance 2001 (For Tax benefits after registration with CSO Law)

NPOs can register under any of the laws mentioned above. However, most of the NPOs are registered under Societies, Social Welfare, Trust Act and SECP. Therefore, Pakistan Centre for Philanthropy (PCP)'s Guide-Book on Legal Framework<sup>6</sup> provides the details of these four laws, their registration requirements and post registration compliance toolkit. In addition to legal guide, PCP website provides the detailed procedure for the tax related benefits of an NPO in the form of four tax guides.

### Policy for Local NPOs Receiving Foreign Contributions:

The government has introduced the policy relating to foreign contribution received by local NPOs. To understand these conditions, first let us consider how the Pakistani government defines foreign contributions: "[...] foreign contributions (or foreign economic assistance) include money, services, and goods which emanate from outside Pakistan."

Government of Pakistan now requires locally registered NPOs involved in foreign contribution to sign a MoU with Economic Affairs Division (EAD) for their operations involving foreign projects. The objective of the policy is that organizations registered outside Pakistan and any organization registered within Pakistan and desirous of utilizing foreign economic assistance are required to register themselves with EAD. To gain (and maintain) EAD registration, Pakistani nonprofits must file<sup>7</sup> a basic information performance which includes:

01. Annual plan of action;
02. Proof of registration in Pakistan;
03. Approval of Commissioner Inland Revenue concerned under section 2(36) of the Income Tax Ordinance 2001;
04. Tax returns for the past 3 years;
05. Annual reports for the last 3 years;
06. Funding guarantee letter containing donor commitment;
07. Proof of local residence with complete address/telephone and list of local contacts in Pakistan;
08. Staff details;
09. Declaration of assets;
10. Bank account details with a commitment that all payments above PKR 25,000/- in Pakistan will be made through banking channels;
11. Draft MOU in the prescribed template signed at the prescribed place and initialed on each page.

Additionally, the nonprofit must renew their registration every three years and renewal application will be vetted similarly.

<sup>6</sup><http://pcp.org.pk/uploads/Law%20Guide%20Book.pdf>

<sup>7</sup>[www.ead.gov.pk](http://www.ead.gov.pk) (NGOs Section)





The number of nonprofits having EAD MOU is in constant state of flux. Before making a foreign contribution, Pakistani diaspora are to check EAD website, [www.ead.gov.pk](http://www.ead.gov.pk) (NGOs Section), for the list of NPOs approved by EAD to receive cross border donations in Pakistan.

### Banking Regulations for Local NPOs Receiving Foreign Funding:

Apart from going through the scrutiny from EAD, local NPOs need to fulfill many requirements from banks and tax officials. Banks are particularly concerned with the sources of funding and need NPOs to provide them with documentary evidence of every transaction emanating from abroad. In case of insufficient evidence, banks may even refuse to credit the received funds to the concerned account<sup>8</sup>.

Usually, the onus of checking the source of funds, intended use and other details lie on the country of origin. However, in case the Anti-Money Laundering and Counter Terror Financing, laws are not very stringent in the country of origin, such details are checked and verified prior to crediting the amount to the recipient bank account, irrespective of the mode of transfer. In Pakistan, the banks are required to mainly check and verify the below listed information:

01. Registration status of the recipient organization.
02. Valid MOU with EAD, allowing the organization to receive foreign funding.
03. If the MOU with EAD is under process, the organization needs to obtain a letter from EAD stating the application for MOU is under processing. The approval for crediting the funds to the bank account of the recipient organization in this case will come from the respective bank's Head Office subject to their satisfaction.
04. Detailed information and documentation on the donor organization, its nature of business, purpose of the funding, name of the organization, its principal business, National Tax Number (TNT) and address of beneficiary is required in addition to any other information as stipulated by State Bank of Pakistan from time to time.
05. The organization is also required to sign an undertaking with the bank about the source of funds, its intended use, stating that the organization takes responsibility for all the information provided to bank.
06. If the donor or donee is an individual, information on identity document, tax status, employment status, address and other credentials are required to be provided to the Bank.
07. If there is no MOU with EAD, or the information provided by the donor or recipient organization is proved to be untrue or unsatisfactory, the amount is returned by the Bank. In case of any serious issues, the bank might initiate action against the bank account holder leading to its possible closure.  
A list of bank account holders which have been red flagged by the Ministry of Interior and EAD is circulated by State Bank of Pakistan to all banks with instructions to close/freeze bank accounts.
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Image Courtesy: tourism.gov.pk

<sup>8</sup> Anti-money Laundering Act 2010



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### Granting to Pakistan | Things You Should Know:

The legal environment for cross-border giving is constantly changing. Beyond keeping up to date with latest regulations, it is important to look at how these rules are translated into practice and to know how they are implemented and enforced. For donors, this type of insight can be useful in practice. Here are a few considerations:

**List of Safe Charities:** In view of the foregoing and with a mandate to devise strategy and national guidelines to countering terrorism finance, National Counter Terrorism Authority (NACTA) Government of Pakistan has developed a partnership with Pakistan Center for Philanthropy (PCP) and recognized PCP certified NPOs as “Safe Charities”<sup>9</sup>.

**Tax Credit:** A donor gets tax credit at the time of filing a tax return. The benefit is available to individuals as well as corporate donors. The communities living outside Pakistan are eligible for tax credit if they donate to an NPO which is registered in Pakistan but simultaneously has 501(c)(3) status in the USA. This has motivated many organizations to register their sister organizations in countries (including USA) where the Pakistani diaspora donate considerable amounts.<sup>10</sup> In the same way, in UK if communities want to donate NPOs which are having charitable activities, HMRC recognizes the tax benefits for such entities. Tax relief includes donations, rents or investment income, on profits when you sell or dispose of an asset. There are many NPOs in Pakistan which have their sister organizations in UK, duly registered with UK Charity Commission.

**Harming the Recipient nonprofit:** A Pakistani NPO or an INGO operating in Pakistan intends to receive foreign funding without having MOU with EAD and Ministry of Interior (MOI) respectively will violate requirement enshrined by the Government of Pakistan. It may lead to closure of the relevant NPO or INGO whatever the case may be. The due diligence may also be made by the donors while making payments to such NPOs working in Pakistan.

### Roshan Digital Bank Account for Non-Resident Pakistanis:

Roshan Digital Account is a recent initiative of State Bank of Pakistan, in collaboration with commercial banks operating in Pakistan to provide innovative banking solutions for millions of Non-Resident Pakistanis (NRPs) seeking to undertake banking, payment and investment activities in Pakistan.

Overseas Pakistanis are being provided an opportunity to remotely open an account in Pakistan through an entirely digital and online process without a need to visit a bank branch. Opening of the account requires only a basic set of information and documents. The customer can choose either a foreign currency or rupee-denominated account, or both. These accounts have the potential to make donations locally and with ease.



<sup>9</sup> <https://nacta.gov.pk/safe-charities/>

<sup>10</sup> <http://pcp.org.pk/uploads/Section%2061%20updated%2010-4-18.pdf>