

Balomenou, Chrysanthi; Bekiaris, Michael; Lagou, Maria

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Funding and Taxation of Greek Non Profit Organizations and Enterprises

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FINANCING AND TAX TREATMENT OF NON-PROFIT ENTERPRISES AND ORGANISATIONS IN GREECE

Balomenou K. Chryssanthi

Professor Advisor in the Post -Graduate Program in Banking, Department of Social Sciences of the Hellenic Open University

Ph. D of the Department of Economic and Regional Development, Panteion University, Athens

Marketing Analyst in the Division of Domestic Branches Network of the National Bank of Greece

email: hjlp6543@hol.gr , balomenou@tutors.eap.gr

Bekiaris G. Michalis

Lecturer in Accounting
University of the Aegean
Business School

E-mail: m.bekiaris@aegean.gr

Lagou D. Maria

MBA, Department of Business Administration, University of the Aegean

email: la44mar@yahoo.gr

ABSTRACT

Non-profit enterprises do not aim at achieving a maximum profit, but instead aim at earning a minimum income needed for their survival. For this reason they try to secure resources from various financing sources and seek for a favourable taxation status. Investigating the various financing sources and the tax treatment of non-profit enterprises is an important issue for their economic feasibility and for achieving their development and social role.

From this examination of both those issues regarding non-profit enterprises it was made clear that there are important financing sources, which could be utilised in order for them to achieve their social mission. Of course, this could be even more enhanced if combined with a special tax treatment framework allowing tax opportunities to be used within the scope of those activities performed by non-profit enterprises.

Key words: non-profit enterprises, social criteria, financing

1. The evolution of non governmental organisations within the European Union

The number of non governmental organisations (NGOs) has been constantly rising during the last years worldwide. Very remarkable is the raise of international NGOs engaging in rendering social services (almost 79% during the 90's), while remarkable is also the increase in areas of "dense globalisation" with the most important being that of the EU member-states. The appearance of NGOs on a EU-level became obvious for the first time during the 90's. More particularly, in 1992 there were more than 100 networks of voluntary organisations in the EU member-states (Harvey, 1992:277). It should be especially stressed that in many European countries the employment in the tertiary sector, which covers more than any other sector of all non governmental and non-profit private activities, rose by 20-30% between the years 1990 – 1995. Those figures reflect the overall expansion of the service sector as well as an increase in the demand for social services, while at the same time they indicate an enhancement of the relations between a state and its NGOs. At this point it should be noted that the various traditions found in the regimes of the states of welfare within the European area are also imprinted on the corresponding non governmental, non-profit sector. More analytically, in terms of the French social economy a great number of organisations operate on a local level by emphasising the financial transparency and effectiveness but with a level of central control. At the same time the NGOs in Italy are striking to ensure the required "living space" between themselves and the State. Moreover, during the above mentioned period, NGOs have developed particular abilities of international co-operation and coordination of collective action.

EU has always been and continues to be absolutely open with regards to a constructive dialogue (European Commission, 1992). More particularly, the NGOs – EU dialogue was officially initiated in the Maastricht Treaty, which highlights the importance of co-operation between the Community and the various charitable institutions and foundations that act as compatible institutions for different accommodations and social care services, which emphasise the social level. During the year 1993, there was a co-operation of NGOs from the various member-states in order to form a dialogue concerning the Green Paper on Social Policy. This co-operation resulted in 1995 in the Platform of European Social NGOs. During the European Social Policy Forum (1996) was encouraged the communication between the EU Institutions, the NGOs engaging in social sector and the social partners. Later on, the Treaty of Amsterdam laid the foundations for important developments that would directly affect the establishment and deepening of Civil Society dialogue, since it adopted a declaration of recognition of the important role of the voluntary sector for creating social solidarity, that included a commitment to encourage the European dimension of voluntary organisations and more particularly to emphasise both information and experience and to encourage the participation of both young and elderly persons in voluntary programmes (European Commission 1999). In parallel, in many cases, it functioned as a mediator in order to overcome various obstacles, such as high operational costs, dependence from national resources as well as different traditions, mentalities, languages, etc. Moreover, it provided the prerequisites needed in order to deal with restraining national regulations and approaches.

Focussing now on the EU's contribution on NGO-financing we firstly say that finding a financing, as this became obvious from the results of a search conducted by the European Citizen Action Service, forms the main reason why NGOs decided to operate on an EU level and are followed by the rendering of services and the presentation of the work of the various European institutions. Under those circumstances the Commission suggested among others that the member-states should examine the financing issues of NGOs as well as the training issues of their staff. However, before an NGO-favourable financing policy could even start, an unfavourable opposing tendency has already appeared, since those Commission departments that are compatible for controlling the market and regulating the competition are opposing any protective arrangements, tax exemptions, grants and any other arrangements creating unfair competition (Polyzoedis 2004). This fact resulted –within the framework of a general recession of financings- in blocking also 800 Million EUR, an amount that was destined for the financing of NGOs. Finally, the problem was overcome after many NGO representations to the European Institutions and the national parliaments. Ever since NGOs, have recognised the power of alliances, they continue to meet in terms of delegations of their main 4 categories (development, social human rights and humanitarian NGOs) and to exchange opinions, while at the same time the Platform of European Social NGOs moved towards a direction of more stable affiliation with labour unions and other NGOs. However, this strong desire for co-operation is contrary to the absolute independence, which is the cornerstone of the whole NGO operation principle. For this reason, the internal NGO regulation concluded in 1999, provides that common actions must be based on unanimous decisions and that in cases of overlapping competences the principle of subsidiarity must apply (Polyzoedis 2005).

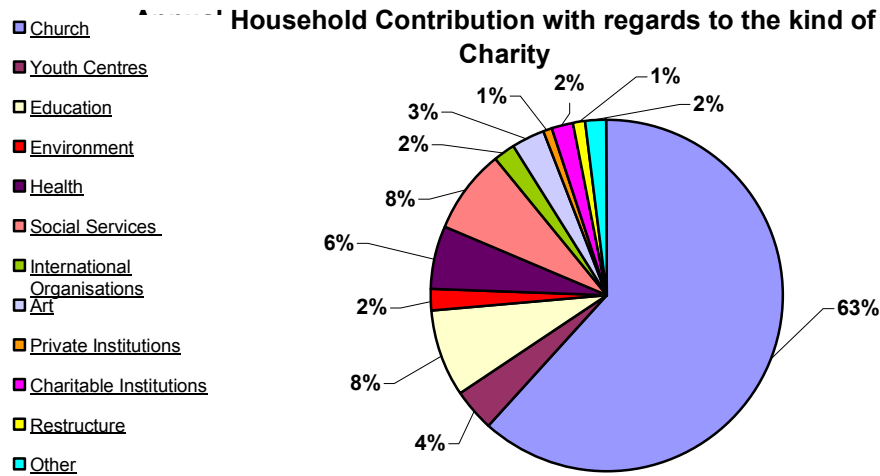
2. The financing of non-profit organisations

In this part we present the way, in which non-profit enterprises acquire their financial capital. Their way differs from the one used by profit driven enterprises, which aim at gaining a maximum profit by charging a bigger price for the services they render and/or the products they sell.

On the contrary, non-profit organisations secure their survival by struggling to render the best services to society. During that struggle they often do not care about any financial losses that may arise and which are some times covered by state grants.

We start the analysis of this paragraph by referring to Figure 1, which shows the distribution of a household's money among the various non-profit organisations.

Figure 1
Annual household contribution in relation to the kind of donation



Πηγή: Sharon, 1995: 111

As one can see from the above diagram, the greatest part of a household's money is spent for religious and educational purposes.

Every non-profit enterprise aims at acquiring as much money as possible in order for it to operate in the optimal way and to fulfil its mission. There are many ways for a non-profit organisation to accumulate the money it needs. Such ways are for example the organisation of some special meetings and/or concerts, the registration of new members that are obliged to pay a registration fee, etc. Moreover, local governments grant extra advantages, such as tax reduction for profit enterprises if they make a donation, usually in the form of money to some non-profit enterprise.

The most usual **ways** of money accumulation by non-profit enterprises are the following:

- ⊙ Simple donations by citizens;
- ⊙ Financial donations by companies;
- ⊙ Contributions by organisation members;
- ⊙ Organising various events in order to accumulate money;
- ⊙ State financing for some non-profit enterprises.

Statistically, about 88% of the total incomes come from private persons and donations made by them. However, even if all necessary proceedings for a successful financial campaign take place no one can ever be sure that the campaign will be successful or if it will bring any result.

Non-profit enterprises usually take the following **steps** in order to have a successful financial campaign:

- a. **Development of a clear target.** A clear target should be set in order for the organisation to be able to easily identify its target-group. On the other side, the rest of the people will be able to judge for themselves if they wish to contribute or not to this particular organisation, according to the targets set by this organisation.
- b. **Development of a clear financial target.** This can help to a great extent a non-profit enterprise, so that it knows how much money it has at its disposal and what part of that money it can spend in order to cover its direct needs.
- c. **Identification of “internal” financial sources.** Such internal financiers of a non-profit enterprise can be the persons that work in it. Also, cutting enterprise bills, such as the telephone and the electricity bill, can provide some extra resources for the enterprise.
- d. **Identification of “external” financial sources.** The identification of external financiers of a non-profit enterprise may contribute to their easier approaching. Annual campaigns of non-profit enterprises help them at becoming more known to the general public and approaching more easily new external financiers.

By following the above steps a non-profit organisation has more possibilities to accumulate the money it needs in order to continue with its operation. Of course, no one can be sure from the beginning about the result of such an effort. Upon implementation of all the above steps a great extent of attention is required in order to minimize any possible staff mistakes that could result in losing some resources which -under different circumstances- an organisation could easily secure.

There are **various ways** used by non-profit organisations in order to accumulate the money needed in order for them to continue with their operation.

The easiest and at the same time the cheapest way is by **Direct Mail**. **Direct Mail** includes all letters and packets send on a regular basis in order to urge people to contribute financially to a non-profit organisation. Although the low cost of this method makes it financially effective, there is in general a very small return

A music or theatre event can also work often as an effective way to accumulate capital, especially when the time and the effort where such an event will take place have been made known in advance. One should not overlook the fact that some non-profit organisations, such as zoos, theatres, dance enterprises and orchestras accumulate their capital by means of their ticket sales.

Some categories of non-profit organisations are based on individual **charity-emotion**, in order to accumulate financial capital. There are many ways to contribute to charity. The most obvious and easiest way might be to send money. Sure enough most of the charities need a greater financing than the one they receive and all financial donations are appreciated.

However, many charitable foundations search for other kinds of aid as well. Organisations rendering services to senior citizens, sick and/or homeless individuals or to people with special needs ask for voluntary aid in order for them to cover a part of their needs and to somehow make their lives easier.

Even not used ownerships can form a very important donation. Many non-profit organisations are housed in old shops that have been abandoned and if they are

offered an old car or truck then this would facilitate their work to a great extent, since the available resources of a non-profit enterprise are not enough to cover such kind of needs. Donations to most non-profit organisations are exempted from tax return.

Below we present a histogram (2) showing individual contributions in Canada, the United Kingdom and the United States of America.

Figure 2
International comparison of individual contributions

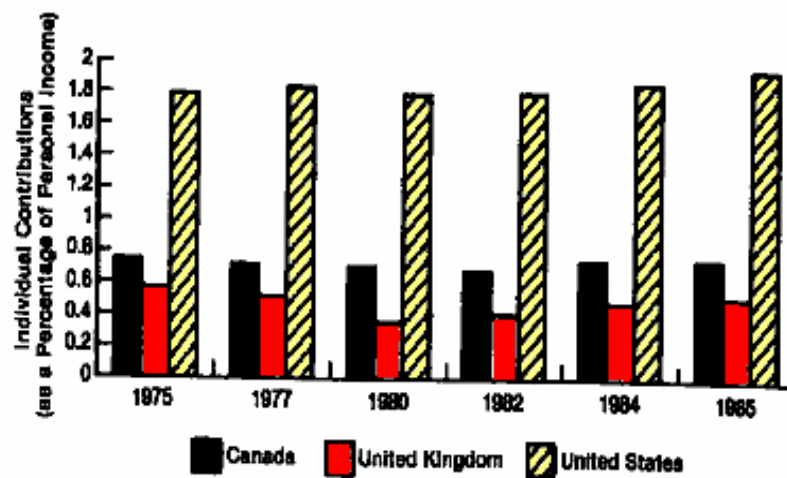


Figure 2.2. International Comparison of Individual Contributions

Πηγή: Sharon, 1995: 110

As one can easily see, the greatest part of individual contributions is held by the USA, while the smallest one by the United Kingdom and this amount keeps rising with the lapse of the years. This means that there is more public sensitization on non-profit enterprises and that the aim of promoting the services rendered by non-profit entities is achieved.

Farther below (Figure 3) we present the average contribution per household, as this has been shaped in the USA.

Figure 3
Average contribution per household

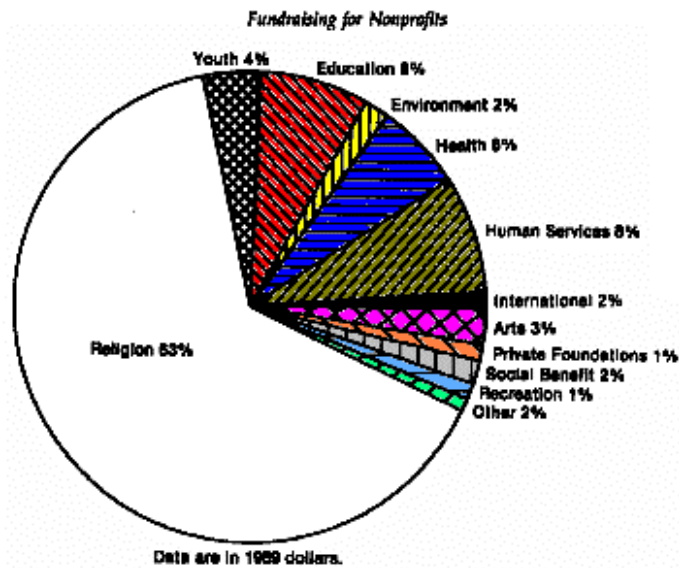


Figure 8.3. Average Contribution per Household by Type of Charity in 1989.

Πηγή: Sharon, 1995: 111

As one can see from the above diagram, the greatest percentage of the average contribution per household is spent for humanitarian services as well as for education -8% of a household's income- while the smallest percentage goes to restructure and private constructions -1% of a household's income.

3. Non-profit Organisations and Public Sector

A great number of non-profit enterprises belong to the public sector. The criteria taken into consideration in order to found and operate such an enterprise by the State are social. **Social criteria** –in terms of a narrow meaning of those words- include welfare benefits as well as those criteria applied by the State in its social policy. In terms of a wider meaning, beyond all the above, they also include all “non-businesslike”, non private-financial criteria, such as for example the protection of general and national interests, maximising social welfare, supplying the market with public goods accessible by all society members, fighting against poverty, the fair allocation of national revenues, the environmental, regional, cultural as well as some development criteria applied by the State. A large part of social criteria are extrafinancial criteria. Some of them even have administrative nature. Although there are also other social criteria, which are close related to financial and businesslike criteria, such as processes of economic growth.

The need to apply social criteria derives from the public and social character of public enterprises, in which social operation criteria are part of their nature. First of all this is about enterprises where an intervention and welfare purpose is prevailing and the aim to be achieved is to serve the public interests and to cover basic needs of general public. There are three elements that form the social character of public

administration: first that the public administration serves more extended social and financial interests, second the restraining of the rights of capital ownership and finally the social responsibility.

Social criteria implementation is particularly common among public enterprises, especially to those where an intervention and welfare purpose is prevailing. Their implementation is organically related to the necessity and the nature of the institution of public enterprises and to the arguments expressed for this institution in the relevant neoclassical and Marxist discussion. Such arguments are avoidance of consumer's exploitation by private monopolies in order for them to make a maximum profit, a more rational organisation of production and the accomplishment of scale economies, a more effective planning for the stabilisation of economy and the acceleration of economic growth. "By nature, State owned enterprises and entities (DEKO), especially those that belong to Public Utility, are often called to render services of reduced prices and to implement investments according to clearly social criteria, often by obeying particular governmental orders...".

Especially in Greece there are public organisations operating according to social and administrative criteria, without implementation of any businesslike criteria (e.g. Didactic Books Publishing Organisation). There are enterprises that are directly administrated by the State (e.g. Post Office Savings Bank). There are public enterprises with legal personality of public law that are pursuing to deal with administrative purposes with methods of public authority. In the recent regulation concerning "public enterprises and organisations" this term also includes non-businesslike institutions. Some particular variations from the private-financial model are related to social and administrative criteria and those variations apply to a category of public enterprises. The State, in order to facilitate the accomplishment of public interest, grants to some public enterprises privileges like the ones applying for the State itself and for the Legal Persons of Public Law. The main privileges are the following:

- ☞ the judicial privileges of the State (e.g. privileged collocation of their requirements in case of forced sale);
- ☞ no subjection to compulsory enforcement or state of bankruptcy ...;
- ☞ tax exemptions (with a tendency to restrict them);
- ☞ applying compulsory means in order to collect the revenues ...;
- ☞ compulsory expropriation for purposes of public utility in favour of public enterprises;
- ☞ Public Guarantee for contracting a loan or issuing a bond loan;
- ☞ the privilege of exclusive exploitation;
- ☞ regular and irregular grants from the national budget.

The implementation of social criteria has also been legally consolidated during the post-war period both in western and in eastern countries. The Italian post-war constitutions state that the serving of social purposes as well as the protection of general social interests forms an obligation of economy's public sector.

The establishing laws of Greek public enterprises, which constitute public legal persons, bear a stereotype written expression saying that public enterprises are established and operate "in order to promote public interest". This particularity of "public enterprises is that they exist and operate for the interest promotion of general

public. From this point of view they approach –but they are not identified with– public operations.”

Social criteria were applied in a great extent in the past in the eastern countries. Nowadays, the various reforms have reinforced a tendency towards an implementation of businesslike criteria.

Social criteria as well as public sector in general have been increasingly criticised during the last years. This criticism concerns the low effectiveness of many public enterprises, despite the satisfactory quality of the services rendered, due to technological, financial and social changes as well as due to increased requirements from the consumers' side. The above factors lead to competition expansion, internal reforms of public enterprises, to their institutional modernisation and to reinforcement of private-financial criteria in terms of a new combination of private and social criteria (Mpampanasis – Gotsias 1998:121-125).

4. Jurisprudence concerning the taxation of non-profit enterprises and organisations

In this section we present the way of taxing non-profit enterprises and we refer to tax reductions made from each government in order to strengthen the efforts of non-profit organisations to contribute to the needs of general public.

As it is written in the relevant jurisprudence regarding tax treatment of enterprises not aiming at making profit, incomes of domestic non-profit legal persons (according to the provisions of Law 2238/94 that was used to encode the provisions of Legislative Decree 3843/58) are not subject to taxation, unless they derive from the rental of buildings, rental of land or values from movables, even when these legal persons do not engage exclusively in charity or welfare services. The verification of the nature of those services may only take place by decision of the Minister of Finance, only after justifying the reasons and having the consent of the Committee, according to the Royal Decree 753/62 (N. Totsis – Chr. Totsis 1980:15-20).

The incomes of the above non-profit persons are not subject to taxation for the mere reason that they have a non-profit character, even if the charity or welfare services cannot be proven. Of course, the above applies only when the legal persons do not turn away from their purpose and do not conceal private actions of their members. However, when the incomes come from renting buildings or renting sites and when a legal person owns other movables then a verification of its non-profit character is required for the tax exemption (Council of State 1143/98 Administrative Trial 12, 502) (Marinakis – Kypraios 2003:950-951). 2003:950-951). Regarding chargeable incomes we note here that the taxes imposed on them are calculated on the basis of the current rates of income tax of legal persons, with exemption incomes of holy abbeys, etc, and national legal persons that aim at rendering public welfare services that derive from renting buildings, etc.

At a different point of the relevant jurisprudence it is written that according to a regulation of Law 2459/97 no tax can be imposed on fixed assets of non-profit legal persons but only on their incomes and therefore this regulation is not contrary to Art. 1 § 1 of the first additional protocol of the Treaty of Rome that protects property

(Council of State 971/01 Journal “Elliniki Dikaiosisini” Issue 43,1213, Journal “Nomiko Vima” Issue 50,1370).

Moreover, regarding the taxation of non-profit organisations, enterprises and companies, it is mentioned that there is an exemption from income tax when it concerns incomes of retirement homes coming from donations and contributions for charity and welfare purposes. In case of exploitation of a retirement home in order to make profit -a very usual case- the taxation is compulsory and the tax returns should be filed, which –in case that they are not filed- are subject to 15-years-long limitation of the State’s right to impose a tax, according to Art. 84, Law 2238/94, which also includes the encoded provisions of Art. 44, Law 820/78, regarding cases of not filing a relevant return.

As mentioned above, incomes of non-profit organisations which come from renting buildings are not free of taxes but instead the rate of tax imposed on them is smaller than the one used for profit-making financial entities. The abrogation, by means of Art. 1 § 6 of Law 2459/1997, of income tax exemption for incomes such as the ones described above, which actually only restrains the above incomes, is not contrary to the articles mentioned in the previous paragraphs (Council of State 2971/01 Journal “Elliniki Dikaiosisini” Issue 43, 1213, Journal “Nomiko Vima” Issue 50, 1370, Council of State 4135/01 Journal “Deltio forologikis Nomothesias” Issue 56, 1686, Journal “Dikaio Epicheiriseon & Etairion” Issue 2002, 218).

Finally, particularly interesting are the co-called urban non-profit companies described in the Articles 741 – 784 of the Civil Code, which in quite a few cases are also dealing with research projects, etc., and are subsidised by EU funds; their purpose is normally other than making profit. They are distinguished into two categories:

- Civil companies with balanced financial result, so there is no point in taxation;
- Civil companies with unbalanced financial result, so in case of a positive result (profit) there is a tax imposed on it according to the current rate tax.¹ (Mitsios - Bekiaris 2002: 201-203).

5. Conclusions – policy-making suggestions

The financial aspect of the engagement of non-profit enterprises is quite interesting. Enterprises of this kind do not aim at achieving a maximum profit, but instead they struggle to ensure a minimum income required for their survival. In order to achieve this they manage to ensure resources by means of both charitable donations and self-financing, which means by selling their services. On their survival attempt many non-profit enterprises receive great aid from the State, either in form of particular grants and financings or in form of favourable tax treatment, contrary to the treatment of profit-making enterprises. The only cases exempted from those tax reductions are enterprises which administrate earnings from renting land and/or buildings. But even

¹ As gross income from commercial enterprises or freelance occupations of urban non-profit companies, subject to taxation, is considered only that income which comes from strictly commercial activities or freelance works (e.g. organising public events; publishing newspapers; broadcasting movies; rents; interests in deposits; etc.).

in those cases, the rate of tax used is by far lower than the one that applies for profit-making entities.

On a European level, NGO-financing and more generally NGO establishment and reinforcement is based mainly on their struggle to gain a favourable treatment by means of favourable phrasings for them in the European Constitution. However, this issue faces two great difficulties/controversies. The first one focuses on the fact that the bold step of establishing an open dialogue with NGOs within the framework of the European Constitution requires a former considered experience. On the other hand, it is exactly this lack of institutional safeguarding that forces or –in the best case- allows the EU institutions to refuse undertaking initiatives towards this direction and consequently the problem is only recycled and the situation remains the same. Of course, what could contribute essentially to NGO strengthening would be an open coordination method of the parties involved, even if it only makes small steps, despite the fact that the results we have seen until today in terms of implementing the Lisbon strategy are quite poor. The second difficulty/controversy focuses on the fact that NGOs, in order for them to achieve their financing and other demands, should operate as a united and organised group, which in fact is extremely difficult if not impossible, given that the various NGOs face the problem of different origins, languages, customs and in general cultures. Although, besides this, the absolute co-operation and common action would be fully contrary to basic features of NGOs, such as their independent operation, the non constraint variety of their actions, their freedom of choice and the flexibility of intervention. In this way, with only scarce exemptions- all relevant initiatives remain segmental and uncoordinated. For this reason, NGOs have only one option for the time being: to be on standby and watch the geopolitical changes that will happen after the new EU expansion and study the new balances that will arise after the voting and the consolidation –from all the involved parties- of the new Constitution of Europe.

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