

Philanthropic Freedom Pilot Study: Mexico Country Report

Overall Philanthropic Freedom Score: 4.07

General Background Information on Mexico

- GDP per capita: \$ 10,047¹
- Population: 115 million²
- Percent of population reporting “giving money”: 22%³
- Percent of population reporting “volunteering time”: 17%⁴
- There are two relevant forms of CSOs in Mexico: civil associations and private assistance institutions. Civil associations are formed via the organization of individuals to pursue diverse non-profit purposes and private assistance institutions are organizations formed to pursue a particular charitable purpose supervised under state jurisdictions.
- Although there is a long history of charity in Mexico, today the total Mexican civil society sector is relatively small. As of January 2013, there were 19,995 organizations registered under the Federal Registry of CSOs (not including labor unions and religious associations). On the other hand, only 7,325 have the authorization to receive tax deductible status. Out of these organizations, 3,121 have both, the authorization to receive tax deductible receipts and registration at the Federal Registry.

Philanthropic Freedom Score Overview

Category	Score	Key Points
Civil Society Regulation	4.83	<ul style="list-style-type: none">• While some restrictions exist on the formation and operation of CSOs, generally organizations are easy to form and operate, with minimal fees and a feasible process.• The organization’s governing body is able to voluntarily terminate the CSO.
Domestic Tax Regulation	3.38	<ul style="list-style-type: none">• Most philanthropic organizations are conditioned to obtain the tax exempt status only if authorized to receive tax deductible receipts. Some organizations such as education institutions are automatically tax exempt. However, charitable organizations are only tax exempt if they have been authorized to receive tax deductible receipt.• Individuals and corporations can obtain full tax deductions on cash and goods donated to authorized organizations. The ceiling on such donations (corporate and individual) is 7% of annual taxable income• The process of obtaining a tax deductible status for a CSO can be cumbersome and bureaucratic.
Cross-Border Flows Regulation	4.0	<ul style="list-style-type: none">• There are no costs and few regulations on receiving donations from abroad. However, tax deductions do not apply to donations made to organizations outside of Mexico.• Due to the double taxation treaty between Mexico and the U.S., U.S. citizens and corporations can receive U.S. tax deductions to certified CSOs in Mexico from income generated in Mexico.
Overall	4.07	<ul style="list-style-type: none">• The policy environment in Mexico is relatively conducive to philanthropic activity. On the positive side, civil society regulation makes it easy to form a CSO. However, the restrictive tax policy has resulted in only one third of organizations to obtain a tax deductible status.

¹ World Bank. (2012). Data retrieved December 26, 2012, from World Bank Databank.

² Central Intelligence Agency. (2012). Data retrieved December 26, 2012, from The World Factbook 2012.

³ World Giving Index. (2012). Kent, UK: Charities Aid Foundation, 2012.

⁴ Ibid.

Socio-Cultural Background on Mexico's Giving Environment
Provided by Consuelo Castro
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According to the Mexican Country Report published in the CIVICUS Civil Society Index, Mexican philanthropic activity and civil society have been growing since the 1960s. During the 1990s, civil society was particularly active in improving human rights. In Mexico, the nonprofit sector is diverse in its causes and its interactions with other sectors, including the corporate and government sectors. Despite the many activities of Mexican civil society, the Mexican population is not well acquainted with the country's active civil society. Currently, Mexican civil society is working to become more consolidated in order to have a greater impact on policy.

Mexico has a few charitable organizations that are more than a century old. Although there is a long history of charity in Mexico, today the total Mexican civil society sector is relatively small. As of January 2013, there were 19,995 organizations registered under the Federal Registry of Civil Society Organizations which was created by the Federal Law on Promotion of CSOs (not including labor unions, cooperatives, political and religious associations). These organizations have to present an annual report whether they have received or not public funds to the Instituto Nacional de Desarrollo Social (INDESOL) (National Institute of Social Development), entity in charge of the Federal Registry.

On the other hand, 7,325 have the authorization to receive tax deductible status. Out of these organizations, 3,121 have both: authorization to receive tax deductible receipts and have been registered at the Federal Registry. There is a strict fiscal regulation to ensure the transparency of organizations that have been authorized to receive tax deductible receipts such as the obligation to have financial audits as medium and large corporations, make their information public at a Transparency Site of the fiscal site.

The time it takes to form an organization may vary on different factors. However an approximate time to have the organization's name authorized by the Ministry of Economy and the articles of incorporation (bylaws) notarized before the Public Notary takes about one month. Later on, the Public Notary has to file the document in the public Registry of Property. The organization may then be registered in the Federal Taxpayers Registry, that is to have the fiscal ID. Then it may require in a parallel form to be authorized to receive tax deductible receipts which may take 3 months approximately and to be registered at the Federal Registry of Civil Society Organizations at the Instituto Nacional de Desarrollo Social (INDESOL) in order to be eligible to participate at public funds solicitations.

Philanthropy is valued in Mexican culture. Historically, the Catholic Church encouraged philanthropic activities since Colonial times, with the establishment of welfare institutions as an assertion of religious values. More recently, Mexican citizens' value of taking on a more participatory role in political, economic, and social development has increased. As a result, not only have charitable organizations been formed, but also civil society has also grown. In the last decade organizations dedicated to diverse activities such as to human rights, environmental sustainability, research, and civic education have greatly increased in numbers.

**Scoring of Mexico’s Civil Society Regulation
Provided by Consuelo Castro**

<p>Indicator Question 1: To what extent can individuals form and incorporate the organizations defined?</p>	<p>Score: 5.0</p>	<p>Freedom of association is guaranteed by the Mexican Constitution. Article 9 states that “individuals shall be entitled to associate or to gather with others in a peaceful way to achieve a lawful objective”.</p> <p>The bylaws are notarized before a public notary that files the incorporation articles at the Public Registry of Property. Therefore the process to form a CSO is completed in an independent and apolitical manner.</p> <p>The law is permissive regarding who may serve as a founder. A charitable organization formed as a private assistance institution has to be incorporated according to the law which specifies that public servants may not be founders. The process of incorporating an organization requires reasonable documentation and registration fee.</p> <p>There are two main legal entities under which an organization can incorporate: as a civil association and as a private assistance institution. If an organization is formed as a civil association, there is no minimum capital or assets required at the time of establishment.</p>
<p>Indicator Question 2: To what extent are CSOs free to operate without excessive government interference?</p>	<p>Score: 4.5</p>	<p>A civil association’s supreme governance body is the General Associates Assembly. In addition, a Board of Directors may also be appointed and authorized to represent and manage the organization. Civil associations do not have any specifications for their internal governance.</p> <p>A private assistance institution is formed by founders and managed by trustees. These organizations are supervised or controlled by a government entity at the State level called “Junta de Asistencia Privada” (Private Charity Board). Main decisions of the private assistance institution such as creation, dissolution, fundraising, investment, donations, budgets, among others, have to be approved by this local government entity. In this sense, this regulation can inhibit their internal governance.</p> <p>There are no restrictions for CSOs to participate in networks and use the Internet and all forms of social media.</p>
<p>Indicator Question 3: To what extent is there government discretion in shutting down CSOs?</p>	<p>Score: 5.0</p>	<p>In the case of a civil association, the organization’s governing body is able to voluntarily terminate the CSO. There may be several causes for which a civil association is terminated. For example, in the event that the reason the organization was created no longer exists or insufficient funds.</p> <p>In the case of a private assistance institution, the government entity called the Private Charity Board has to declare the termination of an institution either for reasons contemplated by the law, or upon the request of the trustees. Upon dissolution, this government entity proceeds with liquidation of assets and decides which other private welfare institution will receive its assets, taking into consideration the founder’s will and the original purpose of the organization.</p>
<p>Average Score on Civil Society Regulation: 4.83</p>		

**Scoring of Mexico’s Domestic Tax Regulation
Provided by Consuelo Castro**

<p>Indicator Question 4: Are there income tax incentives (at national, state, or provincial levels) in the form of credits or deductions for individuals and/or corporations to donate money or charitable gifts?</p>	<p>Score: 3.5</p>	<p>At the national level, there is a ceiling on eligible donations: corporations and individuals may deduct up to 7% of their taxable income paid during the fiscal year. Donations can be made to organizations that are authorized, including government entities, international organizations, and authorized CSOs. The value of in-kind donations can also be included in the ceiling.</p> <p><i>(This question did not require a score by the country expert; CGP applied a score of 3.5. On the positive side, donors can deduct their gifts. On the negative side, the ceiling on such donations is relatively low. Furthermore, the pool of organizations that can receive such donation is small due to limited number of organizations that can receive a tax deductible status.)</i></p>
<p>Indicator Question 5: To what extent is the tax system favorable to making charitable donations?</p>	<p>Score: 4.0</p>	<p>The process of receiving tax benefits when making donations is clear. Donors receive a tax deductible receipt which is applied when the corporation or individual file their tax reports.</p>
<p>Indicator Question 6: Do CSOs receive tax exemptions in the form of property tax exemptions, income tax exemptions, or others? If so, what are these exemptions?</p>	<p>Score: 3.0</p>	<p>CSOs are subject to tax incentives depending on the activity pursued. CSOs dedicated to charitable purposes, education, human rights, culture, environment, technological and scientific activities are eligible to be authorized to receive tax deductible receipts. However, not all CSOs that are tax exempt are eligible to receive an authorized donee status. For instance, sports and religious organizations may not be authorized donees, but are tax exempt. According to a 2010 provision in the Income tax Law, organizations with an authorized donee status can engage in business activities. If the income of such activities is less than 10% of the total income, the CSO does not pay a tax on that income.</p> <p>At the local level in some states, charitable organizations incorporated as private assistance institutions are eligible for payroll exemptions. For example, in Mexico City, CSOs are eligible to receive tax exemptions in the form of property tax, payroll, tax exemptions as well as other local taxes.</p> <p>As of June 2012 January 2013, there were 19,995 organizations registered under the Federal Registry of Civil Society Organizations (not including labor unions, cooperatives, political and religious associations). On the other hand, 7,325 have the authorization to receive tax deductible status. Out of these organizations, 3,121 have both authorization to receive tax deductible receipts and have been registered at the Federal Registry.</p> <p><i>(This question did not require a score by the country expert; CGP applied a score of 3.0. On the positive side, there is a wide range of tax exemptions available to CSOs. On the negative, a small portion of CSOs is eligible for tax deductions.)</i></p>

<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Indicator Question 7: To what extent is the tax system favorable to CSOs in receiving charitable donations?</p>	<p>The range of CSO eligible for income tax exemption includes religious associations, formal education, sports, technological or scientific research, unions, chambers of commerce, professional associations, neighbor associations, rural associations.</p> <p>The range of CSO eligible to receive tax deductible donations is smaller. The main activities that are authorized are: the provision of aid to the needy (including medical, psychological, prevention, attention in disasters, intra-family violence, legal, training for employment and funeral assistance); educational institutions, technological or scientific research, support for culture and the arts, environmental protection, and preservation of national treasures; granting scholarships for studies at certified educational institutions; and aid or grants to authorized donees or to the government, and the defense and promotion of human rights.</p> <p>However, to obtain the authorization to receive a donee status, it is necessary to present a letter from a governmental entity that certifies the nonprofit activities. This can be difficult to obtain because, in most cases, within the structure of the government offices, there is no designated office for CSO regulation.</p> <p>Since 2004, the enacted Federal Law on Promotion of the Activities Conducted by Civil Society Organizations has established a wider range of organizations recognized to be of public benefit: charities, civic development, legal assistance, rural and indigenous development, promotion of gender equality, community development, defense and promotion of human rights, promotion of sports, health and sanitation, environmental protection, urban and rural development, promotion of education, culture, the arts, science and technology, improving the economy, civil protection, and support for the creation and strengthening of civil society, defense of consumer’s rights.</p> <p>However, though some activities overlap with the Income Tax Law in terms of tax incentives, others are left out. Therefore the Income Tax Law should be harmonized according to the Promotion Law in order for these organizations whose activities fall under the Promotion Law to also be eligible to receive tax deductible donations under the Tax Law.</p>
<p>Average Score on Domestic Tax Regulation: 3.38</p>	

**Scoring of Mexico’s Cross-Border Flows Regulation
Provided by Consuelo Castro**

<p>Indicator Question 8: Are there costs/taxes on cross-border philanthropic cash and/or in-kind donations (e.g. customs, duties, VAT, etc)? If so, what are these costs?</p>	<p>Score: 4.0</p> <p>Organizations with an authorized donee status are able to receive charitable contributions from abroad without restrictions or extra costs and their income from this source is tax exempt. They also have incentives to import in-kind donations as long as they comply with the provisions of the customs laws and related regulations. The Ministry of Finance has simplified the process of obtaining the permits in which the application forms can be filled out online. Mexico has a double taxation treaty with the U.S. under which Mexican organizations can qualify to be equivalent to U.S. charities, allowing for U.S. citizens to receive the same tax deductions when donating to qualified Mexican organizations as they would if donating to a U.S. organization deductible only from the income generated in Mexico.</p> <p>However, private entities in Mexico do not receive tax benefits when sending contributions to organizations abroad.</p> <p><i>(This question did not require a score by the country expert; CGP applied a score of 4.0. On the positive side, the cost of receiving donations from abroad is low. On the negative side, donations to foreign organizations are not eligible for tax deductions.)</i></p>
<p>Indicator Question 9: To what extent is the legal regulatory environment favorable to cross-border flows impeded?</p>	<p>Score: 4.0</p> <p>In Mexico there are no restrictions on receiving cross-border charitable donations. However, the law has not been designed for authorized donees to be able to send charitable contributions abroad.</p>
<p align="center">Average Score on Cross-Border Flows Regulation: 4.00</p>	

Overall Philanthropic Freedom Score*: 4.07

***This score reflects equal weighting of the three categories described above.**