



Chile

Global Philanthropy Tracker

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Definitions

PHILANTHROPIC ORGANIZATIONS (POs): A form of non-market, non-state organizations outside of the family that provide services for the public good. It includes, but is not limited to, the following: foundations (grant-making, operating, corporate, community, or government sponsored/created), community-based organizations and village associations, professional associations, environmental groups, advocacy groups, co-operatives, charitable organizations, faith-based organizations, mutual entities, labor unions, societies, research institutes, diasporic organizations, online social-purpose portals, and transnational and cross-sectoral coalitions.

PHILANTHROPIC ACTIVITIES: Philanthropic activities are extremely diverse when considered at the global level. They include, but are not limited to, financial contributions, volunteering, collective action, advocacy, grassroots and direct giving and helping, and new methods such as crowdfunding and hybrid philanthropic activities (i.e., social impact bonds and social enterprises).

CROSS-BORDER PHILANTHROPY: Philanthropic activities in which the donor (individuals, foundations, corporations, or religious organizations) and the beneficiary (individuals, foreign POs, foreign intermediary organizations) are located in different countries. The term includes donations to domestic POs in a given country that focus on broad categories of international causes, such as foreign affairs, humanitarian assistance, international relations, promotion of international understanding, and international solidarity.

Overview of Cross-Border Philanthropy in Chile

CROSS-BORDER PHILANTHROPIC GIVING ENVIRONMENT

Donation legislation in Chile is both complex and fragmented. It is tied to specific causes and is reactive to contingency, failing to provide a holistic view of the concept of philanthropy or to see donations as part of an overarching legal figure. Because of this, cross-border donations have not been explicitly taken into account in Chilean legislation. Because Chile has no comprehensive donation system, both donations that enter the country as well as those leaving it fall into a sort of “legal vacuum.” However, in the context of the recent discussion of Law 21.210 that modernizes tax legislation, enacted in 2020, Congress held a discussion on whether the current blanket donation tax in Chile should apply to international donations. The original proposition sought to unify the tax regime for donations from within Chile and those coming from abroad and to apply a tax exemption to donations originating in Chile and sent abroad. However, this proposition found opposition among philanthropic organizations, especially those related to environmental causes, which have no specific legislation for donation incentives and therefore are not exempt from paying the blanket donation tax or from the judicial authorization process (Ley N° 16.271, 1998). Finally, in the discussion in Congress, the tax reform did not include the article that explicitly taxed international donations, but did not explicitly establish an exemption.

Given the aforementioned, cross-border donations are currently subject to the official rulings of the Chilean Internal Revenue Service, an entity that oversees everything related to taxation and donations. Due to the lack of legislation on the subject, these rulings may change over the course of time and are subject to the interpretation of the authority in office.

Therefore, the tax service has currently determined that donations received from abroad by a philanthropic organization in Chile are not subject to income tax, blanket donation tax, or value-added tax (VAT). The tax service establishes a series of requirements that must be met to determine that a donation is international:

- The donor is foreign, with no domicile or residence in Chile;
- The recipient has residence in Chile;
- The in-kind goods to be donated come from abroad;
- The donation is carried out with funds from a foreign donor source; i.e., the donated property has not been acquired with, or does not originate from, resources from Chile.

It also stipulates that the donation from abroad must not only meet the “legal provisions of its respective country, but can also be classified as a donation under our legislation” (*Oficio N°1209 Director Servicio de Impuestos Internos, 2017*), which implies that there must be a verification that this is a free and irrevocable transfer of goods from one party to another receiving party. The recipient must be a legally constituted nonprofit organization that can issue a certificate for the donation received, in compliance with the donation reporting procedure with the tax service.

Although current legislation and jurisprudence affirms that the system determines donations from abroad to be exempt from taxes, the tax agency establishes a mandatory review on a case-by-case basis. In fact, it affirms that it is “not possible to provide a blanket exemption [from the donation tax] in advance for donations that an

NGO may receive in the future from foreign donors” (Oficio N°331 Director Servicio de Impuestos Internos, 2018).

Even so, a change introduced in 2020 by the *Tax Modernization Law* specifies that although there is no formal donation tax exemption, there is a new measure to mitigate its effect. The new law stipulates that if a donation made by a foreign entity to a Chilean recipient is required to pay a donation tax in Chile, the recipient may reduce from this amount the tax of a similar nature that the donor would have had to pay in the country of origin (*Ley N° 21.210: Moderniza la legislación tributaria*, 2020, p. 73).

For donations made by Chileans to entities abroad, there is no law that specifically regulates this type of donation, and therefore the legislation assumes that these donations are covered by the current Chilean legal system.

DATA ON CROSS-BORDER GIVING

Beyond the regulation, it is not possible to determine the magnitude of cross-border donations in Chile in either monetary contributions or in volunteering. There are institutions that mobilize volunteers (mainly young people) between countries in the region, mainly, but there are no data or recent studies available on this. There is also a lack of official public data on monetary donations, but recent studies¹ show that the percentage of donors who make donations abroad is low: these represent only 3 percent of private foundations, 3 percent of all companies who make donations and only 1.8 percent of citizens who make donations. In this universe, you will find donors related to other countries or diasporas, but there is no relevant cultural or religious tradition associated with the practice of cross-border donations.

In terms of donation recipients, 16.1 percent of philanthropic organizations state that they receive resources from international funds (Aninat & Vallespin, 2019, p. 45). The pandemic has also mobilized international resources into Chile. (There are no official numbers, but to give an example, one third of funds raised between April and June 2020 on the crowdfunding platform MovidosxChile came from international sources).

RECOMMENDATIONS TO IMPROVE THE ENVIRONMENT FOR CROSS-BORDER GIVING

On this issue, Chile needs to:

Integrate international donations into a new general philanthropy law, legally formalizing the provisions established by the tax service that make these exempt from taxes and eliminating the approval processes. This will provide legal certainty to both donors and recipients, establishing similar conditions for the use and reception of both international and national donations.

¹ Unpublished data; results of surveys of donor companies, philanthropic foundations, and citizens used for the first philanthropy barometer in Chile.

Elevate the transparency standards for cross-border donations. By incorporating these into general legislation, this should establish a registry of these donations that will strengthen their accountability for the registry of public services and also public access by citizens.

Table 1

Overview of Cross-Border Giving

Item	Quantitative data
Cross-border giving	3% of companies, 3% of philanthropic foundations, and 1.8% of citizens donate abroad
International funding for donees	16.1% of philanthropic organizations*

* *Primer Barómetro de filantropía en Chile*. Aninat & Vallespin, 2019, p. 45.

The Philanthropic Landscape in Chile

REGISTERED PHILANTHROPIC ORGANIZATIONS

In recent years, Chile has seen an increasing formalization of civil society. Legislation has facilitated the legal constitution of different types of organizations, including nonprofit associations and foundations and community-based organizations, and has established institutional spaces for participation in public policy. Recent studies that characterize civil society have counted 234,000 organizations, of which 48 percent have been formally constituted over the last decade. This represents a ratio of 13 organizations for every 1,000 inhabitants, more than Australia (6.7%) or the United States (4.8%) (Irrázaval, Streeter, Brahm, & López, 2017, pp. 30–31). Of this data set, 80 percent are community-based organizations and village associations (*juntas de vecinos*)² and 6.8 percent are nonprofit associations and foundations (Irrázaval, Streeter, Brahm, & López, 2017, pp. 34–35).

² *Juntas de vecinos* are registered in the National Registry of Non-Profit Legal Entities (Registro Nacional de Personas Jurídicas sin Fines de Lucro).

DOMESTIC GIVING ENVIRONMENT

Philanthropy represents a relevant funding source for these types of philanthropic organizations,³ with 21 percent of their funding coming from donations (Irrarázaval et al., 2017, p. 64). However, beyond the policies of the government in office, there is an institutional condition that hinders the development of philanthropy: the legal framework in force. *Law 16.271 on Inheritance, Allocation, and Donation Tax*, passed in 1965, defined a blanket tax that must be paid by all institutions that receive donations, as well as a judicial authorization that is required of the donor. However, since the 1980s, a series of laws have been enacted that provide tax exemptions and establish tax incentives for donations in specific areas. There is a special law for donations to culture, another for poverty alleviation, one for sports and another for education, or specific institutions such as firefighters. These laws are not coordinated with each other and do not include relevant causes addressed by many philanthropic organizations, such as environmental protection, health care, human rights, or community welfare as a whole.

Donations with tax incentives require philanthropic organizations to meet a series of accreditation criteria, a process that varies depending on the applicable law. In many cases, this does not just require an institution to be accredited, but requires it to undergo an additional approval process for the specific project it will implement with donations, and then report to both the corresponding public agency and the tax service on the donations received. There are over 50 standards that incorporate specific regulations on donation-related issues of both a general nature and for specific events, creating a legislative maze that is hard to navigate for both donors and recipients. The shared diagnosis is that this legal dispersion generates high procedural costs for philanthropic organizations, excludes certain causes and different types of donors, fails to provide total legal certainty for stakeholders, and has low levels of accountability and transparency. This weakness is relevant in a country with low levels of interpersonal and institutional trust. Alongside this, public perception is ambivalent towards philanthropy, when understood as giving by ultra-high net worth individuals and companies. It is highly valued by stakeholders in the philanthropic ecosystem, but it also raises suspicion among those who are not active participants and perceive an excessive advantage of tax incentives for the business sector or rather for a system of closed networks between donors and related recipients. Notwithstanding, solidarity and citizen giving or other types of voluntary action tended to the public good receives a positive perception in general public opinion.

The high procedural costs of the system and the legislative dispersion become roadblocks for smaller or newer entities, as shown in the available data. In 2019, the legal system for donations with tax incentives registered approximately USD 228 million in eligible donations, according to data from the tax agency. Close to 850 organizations received donations during that year, primarily nonprofit associations and foundations, mostly in the Metropolitan Region. This is a small percentage of the total number philanthropic organizations, and shows the low participation of eligible community-based organizations in the system throughout the country.

³ Universities, unions, trade association and political parties are excluded from the analysis.

Trends in Domestic Philanthropy in Chile

AMOUNTS OF DOMESTIC GIVING

Studies in 2015 estimated that resources registered in the donation system by the tax agency came primarily from companies (84%) and to a smaller degree, private foundations (5%) and individuals (10%) (Irrázaval, Streeter, Hazbún, & Fernández, 2017, p. 135). However, what is known as “informal giving,” or direct contributions from individuals to philanthropic organizations, falls outside this incentive system and is not accounted for in official records. Electronic payment technologies and campaigns via social media have facilitated the growth of informal giving: recent studies document donations through electronic payments at USD 128 million in 2018, with an average increase of 23 percent per year from 2014 to 2018 (Aninat & Vallespin, 2019, p. 36).

SOURCES OF DOMESTIC GIVING

Different types of donors (companies, private foundations, and individuals) show common trends around the causes they support with their donations. Education, social development, overcoming poverty, early childhood, senior- and disabled-citizen care are highly relevant areas for different types of donors. Whereas justice and safety, public policy and transparency, or science and technology attract less attention (Aninat & Vallespin, 2019, p. 41). The public health and economic crisis associated with Covid-19 has brought about a change in the traditional donor focus, redirecting donations toward healthcare, food provision, programs aimed at continuing education, and care for the elderly.

USES OF DOMESTIC GIVING

The pandemic has placed increased importance on the donation of basic goods. In this sense, the regulatory trend towards incorporating incentives for donations, not just in cash but also in goods and services, will facilitate the provision of basic goods. In fact, in 2020, Law 21.210 was enacted, modernizing tax legislation and incorporating measures to stimulate the donation of raw materials, supplies and finished products still apt for consumption (which include not just food but also basic hygiene products, school supplies, and construction materials) also applies sanctions on their destruction. Although there is insufficient data available to determine its magnitude, it is possible that this new regulation will result in an increase in donations, especially from producers of these types of products.

The 2020 pandemic has had interesting effects on philanthropic practice. Its first effect has been a stimulation of collaboration among and between donors and the public sector, both nationally and locally. An example of this is the business sector fund *Siempre por Chile*, which has raised USD 128 million (by June 2020) for relief programs (provision of food boxes, masks, and other health care supplies), which has been provided in coordination with both public agencies and charities. A second effect has been the strengthening of social networking and the use of technological platforms to mobilize private donations. Online campaigns and collaborative crowdfunding platforms, previously uncommon in Chile, have multiplied during the pandemic. An example of this change is *MovidosxChile*, developed with the support of IDB, that has brought together

different philanthropic organizations to mobilize giving to different programs that support families, children, and the elderly. A third effect has been the incorporation of transparency and accountability systems, adopting a practice that philanthropic organizations have been voluntarily integrating over the last few years in the absence of regulations, to build trust in the ecosystem.

The social crisis and protests in Chile in October 2019 drew attention to the need to articulate a new social pact and showed a desire for greater citizen participation in public policies. The social and economic challenges of the Covid-19 pandemic have invigorated private giving from companies, private foundations, and citizens towards basic needs that will possibly remain in place in the medium term. Together with this, hybrid social investment models have begun to emerge in the last years. Chile shows a high level of social enterprise certification. With 146 certified B corporations, in 2019 it had more B corporations per capita than any other country in Latin America (mostly small and medium enterprises). It also ranks sixth among the 45 primary global economies for social enterprise (Thomson Reuters Foundation, 2016). Impact investments have been adding to the philanthropic practice ecosystem and it is estimated that they channel close to USD 138.2 million per year (Sánchez, 2019, p. 21). There are several elements that make up this ecosystem: investor networks, impact funds, social impact contracts with the participation of private foundations, public and international agencies (IDB), and a cross-sectoral group of advisors organized into a national steering group named NAB Chile. These elements project a growth of this type of investment in Chile.

FUTURE TRENDS

Considering that Chile has the highest per capita GDP in Latin America, it is unlikely that international donations increase significantly, though the lack of data in this realm makes it difficult to dimension its magnitude. International contributions to Chile tend to be associated with specific projects or areas where the country holds a particular relevance, such as environmental protection, or certain international institutions with regional headquarters in Chile. On the other side of the spectrum, the social and public health crisis makes it unlikely that local Chilean donors will be looking to increase their donations to other countries. Even so, within the broad spectrum of philanthropic organizations, there are some whose mission is regional, meaning that they mobilize national resources for projects implemented in other South American countries, for example, in relation to housing or early childhood.

RECOMMENDATIONS

The growth of civil society, the visibility of social needs, citizen pressure for a new and more equitable political-social-economic model, and for broader spaces for participation in the creation of public policy, project a strengthening of philanthropic practice. To unlock the potential of philanthropy in Chile, we must make progress in three areas:

Reorganize legislation with a general law for philanthropy that provides legal guarantees, is inclusive for all causes, with incentives that are appropriate for different types of donors and recipients, and with increased levels of accountability and transparency.

Strengthen the capacity of philanthropic institutions to mobilize private resources through technological platforms and through an increased capacity to develop hybrid social capital models (including impact investments).

Develop models that strengthen ties between communities, expanding participation and philanthropic practice in diverse regions and towns throughout Chile. The community foundation model serves as a response to unlock the potential of philanthropy in different communities and promote the participation of different stakeholders in the construction of a common good.

Table 2

OVERVIEW OF CHILEAN PHILANTHROPIC SECTOR

ITEM	QUANTITATIVE DATA
Registered philanthropic organizations	234,000 organizations, 48% formally constituted in the last decade ^a 80% community-based organizations and village associations 6.8% non-profit associations and foundations ^b
Official data on amounts of giving (tax agency)	USD 228 million in 2019 84% by companies, 5% by private foundations and 10% by individuals ^c
Number of nonprofits that received donations in 2019	898 nonprofit organizations ^d
Unofficial amounts of giving (donations made through electronic payments)	USD 128 million ^e
Impact investment	USD 138 million ^f

Sources:

^a Radiografía de las organizaciones de la sociedad civil. Irarrázaval, Streeter, Brahm, & López, 2017, pp. 30–31.

^b Radiografía de las organizaciones de la sociedad civil. Irarrázaval, Streeter, Brahm, & López, 2017, pp. 34–35.

^c Fortaleciendo la sociedad civil: el rol de los incentivos tributarios en las donaciones. Irarrázaval, Streeter, Hazbún, & Fernández, 2017, p. 135.

^d http://www.sii.cl/sobre_el_sii/nominadonaciones.htm

^e *Primer Barómetro de filantropía en Chile*. Aninat & Vallespin, 2019, p. 36.

^f *Guía para la inversión de impacto en Chile*. Sánchez, 2019, p. 21.

References

- Aninat, M., & Fuenzalida, I. (2017). *Filantropía Institucional en Chile*. Santiago.
- Aninat, M., & Vallespin, R. (2019). *Primer Barómetro de filantropía en Chile*. Santiago.
- Fundación Terram. (01 de Octubre de 2019). <https://www.terram.cl>. Recuperado el 2020, de <https://www.terram.cl/2019/10/impuesto-a-donaciones-desde-el-extranjero-queda-fuera-de-modernizacion-tributaria/>
- Irarrázaval, I., Streeter, P., Brahm, S., & López, A. (2017). Radiografía de las organizaciones de la sociedad civil. En I. Irarrázaval, P. Streeter, & y colaboradores, *Sociedad en Acción: Construyendo Chile desde las organizaciones de la sociedad civil* (pp. 27–35). Centro de Políticas Públicas UC; Chile + Hoy.
- Irarrázaval, I., Streeter, P., Fernández, G., López, A., Salamon, L., & Sokolowski, W. (2017). Radiografía de las organizaciones de la sociedad civil. En I. Irarrázaval, P. Streeter, & y colaboradores, *Sociedad en Acción: Construyendo Chile desde las organizaciones de la sociedad civil* (pp. 46–73). Centro de Políticas Públicas UC; Chile + Hoy.
- Irarrázaval, I., Streeter, P., Hazbún, C., & Fernández, G. (2017). Fortaleciendo la sociedad civil: el rol de los incentivos tributarios en las donaciones. En I. Irarrázaval, P. Streeter, & y colaboradores, *Sociedad en Acción: Construyendo Chile desde las organizaciones de la sociedad civil* (pp. 122–154). Centro de Políticas Públicas UC; Chile + Hoy.
- Ley N° 16.271, Ley de Impuesto a las Herencias, Asignaciones y Donaciones (26 de Octubre de 1998).
- Ley N° 21.210: Moderniza la legislación tributaria. (24 de febrero de 2020).
- Oficio N°1209 Director Servicio de Impuestos Internos. (15 de 12 de 2017). Servicio de Impuestos Internos. http://www.sii.cl/normativa_legislacion/jurisprudencia_administrativa/ley_impuesto_renta/2017/ja2638.htm
- Oficio N°331 Director Servicio de Impuestos Internos. (2018). Servicio de Impuestos Internos. http://www.sii.cl/normativa_legislacion/jurisprudencia_administrativa/ley_impuesto_renta/2018/ja331.htm
- Sánchez, V. (2019). *Guía para la inversión de impacto en Chile*. Pontificia Universidad Católica de Chile; Asociación hileña Administradora de Fondos de Inversión.
- Thomson Reuters Foundation. (2016). *The best countries to be a Social Entrepreneur*. <https://poll2016.trust.org/>