



# Thailand

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## QUICK FACTS

**Legal forms of philanthropic organizations included in the law:** Association, Foundation

**Five main social issues addressed by these organizations:** Basic Needs, Housing and Economic Development, Energy, International Causes, the Aged Population

**Average time established by law to register a philanthropic organization:** 31-60 days

Registration steps include the following:

Step 1: Submit and review documents (1 day);

Step 2: Check and verify documents (9 days);

Step 3: The Board of community organization examining and certification (25 days); and

Step 4: The Board of community organization has approved and signed. (25 days).

On average, the total time for registration is 60 days.

**Average cost for registering a philanthropic organization:** US \$5,500 - \$14,285

This includes costs of endowment for forming a foundation

**Government levels primarily regulating the incorporation of philanthropic organizations:**

Central/Federal Government, State Government, Local Government

Central Government: Ministry of Interior and Ministry of Culture deal with the establishment and consideration for abolition of POs. State Government and local Government are in charge of processing the registration and monitoring the POs/NGOs' operation.

### Philanthropic Environment Scores:

Year	Ease of Operating	Tax Incentives	Cross-Border Flows	Political Environment	Socio-Cultural Environment	OVERALL SCORE
2018	3.5	3.0	3.0	3.0	3.0	3.10

## I. Formation/Registration, Operations, Dissolution of a Philanthropic Organization (PO)

*The three questions in this section pertain to the laws and regulations governing philanthropic organizations (POs). The scoring questions for this category cover three aspects of regulations: (A) formation and registration, (B) operations, and (C) dissolution.*

**Question 1: To what extent can individuals form and incorporate the organizations defined?**

<b>Score: 4.0</b>
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Thailand Constitution (Section 42) guarantees freedom to form an association, a co-operative, a union, an organization, a community, or any other group. Restrictions to this freedom include protecting public interest, maintaining public order or good morals of people, or preventing or eliminating barrier or monopoly.

Although small unregistered organizations operate in Thailand, like working groups, associations and foundations must be registered with the Thai Ministry of Interior and get government approval. According to McQuistan, Markphaengthong, and Permpatr (2015) although nonprofit organizations are required to register, there are many unregistered organizations in Thailand because there are not sufficient incentives to encourage groups to register.

The two main forms of philanthropic organizations in Thailand are foundations and associations. The Civil and Commercial Code, Sections 78-109, govern the incorporation and operation of associations, and Sections 110-136 govern foundations. Section 78 of the Civil and Commercial Code establishes that the registration of an association must be filed jointly in writing by at least three of the members of the association with the Registrar of the area where the principal office of the association is located. In order to be approved associations must not pursue purposes contrary to the law or good morals or be endangering public order or national security (Section 82). Once registered the association acquires legal personality. If the application is refused, applicants can make the necessary corrections within the next thirty days. If within these thirty days corrections are not made, the Registrar shall give an order refusing the registration and inform the applicant without delay of reasons for such refusal. Applicants have the option to appeal in writing against the order of refusal for registration to the Minister of Interior through the Registrar within thirty days from the date of receipt of the refusal order. The Minister of Interior shall decide the appeal and inform the appellant of the decision within thirty days from the date of receipt of the written appeal by the Registrar. The decision of the Minister of Interior shall be final.

Section 110 of the Thailand Civil and Commercial Code defines a foundation as a “property specially appropriated to public charity, religious, art, scientific, education or other purpose for the public benefit and not for sharing profit”. A foundation must have at least three members, and must have a Committee and its bylaws to be registered, and requires an endowment of a minimum of THB 200,000 (US \$5,880). When the application for registration is approved, the registrar will issue a certificate of registration to the foundation, and the registration is published in the Government Gazette. The process for refusal and appeal is similar to the one used with associations.

**Question 2: To what extent are POs free to operate without excessive government interference?**

Score: 3.5

Once registered and approved by government, organizations have little government interference with the definition of their internal structure and bylaws, however they do have reporting requirements. The Civil and Commercial Code regulates the meetings of the associations, the requisites to constitute quorum and the procedures for decision-making. In the case of foundations, the Code specifies the only two cases in which the regulations of a foundation can be changed: 1) To make the implementation of the object of the foundation possible; and 2) the amendment make the object of the foundation closer to the original purpose.

Section 128 of the Code gives power to the registrar to inspect, control and supervise that the activities of the foundation are performed in conformity with the law and the regulations of the foundation. This article entitles any competent official entrusted by the registrar to make inquiries regarding the foundation and enter the office of the foundation between sunrise and sunset for inspecting the business of the foundation.

In Thailand individuals who defame, insult or threaten the Thai royal family (*crimes of lèse majesté*) can be punished with imprisonment of three to fifteen years (Criminal Code, Section 112). This section of the code may imply that nongovernmental organizations (NGOs) that use internet or any public space to question the King can be imprisoned.

**Question 3: To what extent is there government discretion in shutting down POs?**

Score: 3.0

The organization's governing body is able to voluntarily terminate its activities. When the organization shuts down or change organization's name, the information must be published in the government Gazette.

According to the Civil and Commercial Code, an association can be voluntarily dissolved in the following cases (Section 101): if formed by a definite period; if its purpose has been accomplished; if the association decides its dissolution in a general meeting; and in case of bankruptcy. The Committee of the association that holds the office at the time of dissolution of the association shall inform the Registrar of the dissolution within fourteen days from the date of such dissolution.

The registrar also has the power to remove the name of an association from the Register in the following cases (Section 102):

- If after registration, the object of the association is contrary to the law or public moral or is likely to endanger the public peace or national security and an order for modifying such object has been given by the Registrar, but the association fails to comply therewith within a period fixed by the Registrar;

- If any activity conducted by the association is contrary to the law or public morals or is likely to endanger the public peace or national security;
- If the association has stopped doing business for more than two consecutive years;
- If the association allows or let other persons who are not members of the association to execute business of the association; and
- The number of members of the association has been less than ten for more than two consecutive years.

In any of these cases, a member of the association may also request the Registrar to have the name of the association struck off the register. If the registrar fails to comply with the request, the person can require dissolution by a Court.

For foundations, the Civil and Commercial Code, Section 130 provides the reasons for voluntary dissolution, which are the same established for associations, except that foundations cannot be dissolved by a resolution to dissolve approved in a general meeting. Causes for removing a foundation from the register are also similar to the causes established for associations and the procedure for appealing is also similar.

Regulations for the liquidation of both associations and foundations are clear and reasonable. After liquidation, the remaining assets of the association or foundation, if any, cannot be distributed among the members. These assets shall be transferred to such other association or foundation, or any legal person with charitable purposes. The public prosecutor, the liquidator or any interested person may apply to the court for appropriating the assets to other foundations or juristic persons whose object is closely similar to that of such PO (Sections 107 and 134).

## II. Domestic Tax and Fiscal Issues

*The two questions in this section pertain to laws and regulations governing the fiscal constraints of giving and receiving donations domestically.*

### Question 4: To what extent is the tax system favorable to making charitable donations?

Score: 3.0
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There is a law on reduction of income tax on an individual who donates money to registered POs, but this information regarding tax relief is not known to many people.

There is no ceiling on donations, but the price of deduction is defined by the government. The last updated information of price deduction is 10 percent maximum of income to individuals and 2 percent of the net profit to corporations (Revenue Code Section 65/3).

**Question 5: To what extent is the tax system favorable to POs in receiving charitable donations?**

Score: 3.0

After registration, POs have to receive the legal status or jurisdiction status, and they have to apply for tax-exempt status too.

The process of receiving the tax exemption is not clear; in Thailand, a number of NGOs are established organizations, working for more than 10 years, and have not yet to obtained tax-exempt status.

The range of eligible organizations that can apply for tax exemption is limited and this can lead to abuse from government officers. A good example is the case of Greenpeace, whose mission and operation is environmental conservation, but which also created conflicts with government authorities. After working for more than 10 years, Greenpeace Thailand has not yet received tax-exempt status.

There are no major constrains for receiving the support of private donors and other big donors. Currently, many POs are working with the private sector on several projects and activities.

**III. Cross-Border Philanthropic Flows**

*The two questions in this section concern laws and regulations governing the fiscal constraints of giving and receiving cross-border donations. The scoring for these questions pertains to the donor and receiving entities.*

**Question 6: To what extent is the legal regulatory environment favorable to sending cross-border donations?**

Score: 3.0

In Thailand, religious and charitable services, as well as healthcare and educational services provided by hospitals and educational institutions are exempted from VAT. All cross-border donations outside Thailand need the approval of the Ministry of Finance.

Donors making cross-border donations do not receive tax incentives.

**Question 7: To what extent is the legal regulatory environment favorable to receiving cross-border donations?**

Score: 3.0

There are taxes on cross-border transactions both in-cash and in-kind donations. The Ministry of Finance must approve all foreign or cross-border transfers of money.

Currently, charitable contributions from abroad are the result of agreements and commitments between Thai NGOs and Donors. After signing the Memoranda of Understanding (MOU), NGOs have to submit the report and MOU to government officials for consideration of tax exemption.

On several occasions, domestic POs have received cross-border cash donations to conduct activities, sometimes provided by international organizations such as USAID, UNDP, and foreign companies. Cross-border grants also need the approval of the Ministry of Finance. There are some restrictions in terms of other conditions if the purpose of the activity funded is considered illegal.

#### IV. Political and Governance Environment

*The three indicator questions in the next two sections concern the political and governance context, socio-cultural characteristics, and economic conditions that influence the environment for philanthropy.*

**Question 8: To what extent is the political and governance environment favorable for philanthropy?**

Score: 3.0

There are some tensions between government and NGOs, most of them with NGOs involved in environmental issues since government wants to invest in infrastructure. There have been some protests and conflicts in that matter.

In case of education, however there have been alliances with some NGOs that work on promoting reading, learning spaces, and so on. There have been alliances with NGOs who participate with the Bangkok Metropolitan Authority to make Bangkok a world Book Capital and Learning City.

Nowadays, many companies focus on sustainability. This motivates collaboration with NGOs to work on social projects to improve their Dow Jones Sustainability Index. This fact alone has increased the range of activities of some NGOs, leading them to collaborate with the private sector or be engaged in Corporate Social Responsibility projects.

**Question 9: To what extent are public policies and practices favorable for philanthropy?**

Score: 3.0

Thai government rarely promotes a cultural philanthropic tradition. However, nowadays, there are many collaborations between the private sector and Thai NGOs, and sometimes with government. While registered NGOs get support from Government, unregistered NGOs are usually restricted to operate and run their activities because government is concerned that these organizations may have a 'hidden' agenda.

## V. Socio-Cultural Environment

**Question 10: To what extent are socio-cultural values and practices favorable for philanthropy?**

Score: 3.0
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Although Thailand has a long tradition of religious philanthropy, rooted in the principles of Buddhism, the institutionalization of the sector and creation of NGOs flourished much later, after the seventies. OECD (2001) reports that in 1989, there were more than 12,000 local NGOs in Thailand, almost half of them were in the broad welfare area. This proliferation was considered an indication of a “perceived neglect or failure by government to meet welfare and development needs, especially in rural areas and in dealing with disadvantaged and minority groups” (OECD, 2001, p.139). According to a report on the Civil Society in Thailand, published in 2011 by the Asian Development Bank, towards the nineties the dynamics of the civil society changed from service delivery development NGOs to groups organizing environmental protests and campaigns, and as inequality increased, so did the number of NGOs working to alleviate poverty and the number of grassroots organizations.

In Thailand, there have been conflicts between organizations conducting environmental protests and the government; however, this is not the case with organizations involved in rural development, working with the poor or involved in cultural causes to preserve traditions. For example, “Princess Maha Chakri Sirindhorn Anthropology Center” conducts research and collects the local wisdom to promote and enhance cultural awareness among the public.

The perception of NGOs in terms of transparency is not very good in general. According to *Giving in Thailand: Fundraising Opportunities in 2010*, “...there is some skepticism among Thai people, particularly in the rural areas, towards the term ‘NGO’. Interviewees mentioned that the term has been confused with government agencies, political parties and corruption and thus, the Thai people can be wary of giving to NGOs. More so, they would prefer to give to someone they trust, such as a family member or respected society figure i.e. monks, teachers or doctors” (Perkins et al., 2010, p.8-9) However, in Thailand, if a NGO conducts activities related to agriculture and Small and medium-sized enterprises (SMEs) they get wide acceptance. When these type of organizations need support from big corporations, it is easy for them to get the support they need.

In terms of diversity, the employees and staff of NGOs are usually diverse. They include both male and female staff because in some situations, like coordination with local authorities women are expected to perform better than men. In other situations, such as negotiations, men are expected to find a better environment. Therefore, a mix of both genders in organizations enhances the performance of NGOs.

## VI. Future of Philanthropy

*These questions are used to provide a general picture of the future of philanthropy in this country as well as recommendations to improve the philanthropic environment.*

### **Current state of the philanthropic sector**

NGOs in Thailand are “multi-tasking” because in a country that is not poor, NGOs have to make an effort to pursue innovations that give them the recognition and support of the general population and the private sector. POs will need to find opportunities to survive in the future along with the growth of the economy. While it is true that the Thai economy is growing, many donors have reduced their support, making POs work to find new sources of funding among individuals and businesses.

Although Thailand has fundraising possibilities among the general public and leading companies firmly involved in Corporate Social Responsibility (Onozawa, 2013), NGOs need to build capacity for fundraising in order to gain strength and be more sustainable.

### **Three major recent events affecting the philanthropic landscape between January 2014 and December 2016**

- On August 2016, a new constitution was voted in referendum. On April 2017, Thailand’s 20<sup>th</sup> Constitution came into force.

### **Future development trends in the philanthropic landscape**

Future may bring an increase in number and scope of partnerships and collaborations between the private sector and nonprofit organizations and an extension of the network of NGOs.

### **Three key recommendations to improve the environment for philanthropy**

- Establish a good monitoring system to enhance the capacity of registered NGOs, and exert better control of unregistered NGOs; and
- Government must increase tax incentives to donors who give to public causes, and promote participation in activities conducted by NGOs.