ROTTERDAM CONGRESS 2012 - RUSSIAN NATIONAL REPORT
TAXATION OF CHARITIES

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I General questions

1. Special tax rules for not for profit activities (in general)

Russian tax law is based on the principle "of equality and uniformity of taxation" (Art. 3 of the RF Tax Code) which is usually interpreted as not allowing any differentiation of tax treatment on non-economic criteria if there are no explicit constitutional reasons for otherwise. Based on this principle most tax rules in regard to different taxes are built on a universal approach to all taxpayers and do not imply the existence of a separate tax treatment for non-commercial organizations. Accordingly, the distinctive features of taxation for non-commercial organizations can be revealed not due to the reference of the legislator to their characteristics as subjects of law (not pursuing the gain of profit) but due to characteristics of tax objects themselves which are usually relevant/ or not relevant for non-commercial activities. For instance, non-commercial organizations are not typically engaged in production and sale of goods on the regular basis, so it is quite likely that they will not have to pay excises and the number of cases when they have to pay VAT will be limited (or even will not arise at all).

However, though the above-mentioned principle declares uniformity of taxation mechanisms, in a number of cases special taxation rules for non-commercial organizations may be established in regard to certain kinds of taxes. In particular, they include the following:

1) in regard to VAT – exemption of certain operations from object of taxation (Art. 39 of the RF Tax Code) and also exemption of some kinds of sales, etc. (Art. 149 of the RF Tax Code);
2) in regard to tax on profit – exemption of certain transfers of funds and property in favour of non-commercial organizations (Art. 251 of the RF Tax Code) and some other special rules;
3) in regard to tax on the property of organizations, land tax, transport tax – establishment of certain preferential regimes in relation to the subjects which conduct non-commercial activities of a certain kind, etc.
4) limitation of some forms of tax audit of non-commercial organizations which do not conduct entrepreneurial activities.[1]

The Russian legal system belongs to the continental European law tradition and is close to the Romano-Germanic subgroup of legal systems. In the light of that, the

[1] In particular, it is worth mentioning Art.91 (2) of the RF Tax Code which provides for the rules concerning the access of tax authorities to the premises or offices of taxpayer for tax inspection. It establishes that tax authorities conducting a tax audit can inspect *the premises or offices which are used for carrying out entrepreneurial activities by the taxpayer under inspection* or inspect the objects of taxation to compare the factual information about these objects with that in the documents provided by the taxpayer under inspection. Thus, following from the literal interpretation of the norm tax authorities have the right for inspection of taxpayers' premises or offices only if they are used for *conducting entrepreneurial activities*.

Russian case law usually plays an auxiliary role and is based on statutory law. Similarly, tax case law being based on statutory tax law, interprets and develops its provisions. However, in some previous periods (1992 – 2006) the court practice sometimes significantly filled in the lacunas (which existed then) in the statutory law (e.g., when identifying a certain discord between special legislation on education which establishes full exemption of educational activities under some conditions and tax legislation which did not confirm such tax privileges, the courts gave preference to the legislation on education, thus ensuring a favorable tax treatment of non-commercial organizations of this kind which at that time was not clearly expressed in statutory tax law).

At present due to specifications in some provisions of the RF Tax Code the role of case law in forming the tax treatment of non-commercial organizations has somewhat decreased. However, still now the legislator does not consider statutory tax regulation of non-commercial organizations to be completed and fully developed; it is proved by the introduction of Draft law No 385319-5 "On changes in Part II of the RF Tax Code for improving taxation of non-commercial organizations and charitable activities". It has been recently adopted as Federal Law No 235-FZ of 18 July 2011 approved by the RF State Duma and signed by the RF President and later amended by Federal Law No 328-FZ of 21 November 2011 "On changes in legislation of the Russian Federation concerning the rules for forming and using special target funds of non-commercial organizations".

2. The scope of not for profit activities

In Russian tax law there are several simultaneously used terms which can describe the special social aim of an organization and the activities which it conducts. Here belong "*non-entrepreneurial*" and "*non-commercial*" activities. Article 2 of the RF Civil Code contains the concept of "*entrepreneurial activity*". In accordance with this article (para. 1 (3)) "the activity is deemed to be entrepreneurial if it is independent, undertaken at one's own risk and directed at the systematic making of profit from the use of property, sale of goods, performance of works or provision of services by persons registered in this capacity in accordance with the procedure stipulated by law".

However, in regard to the legal persons the legislator more often uses the classification of organizations into "*commercial*" and "*non-commercial*"; this classification has been provided for by the RF Civil Code (Art. 50). In accordance with the above-mentioned article "legal persons may be organizations which have the making of profit as the primary purpose of their activities (commercial organizations) or those which do not have the making of profit as such a purpose, and which do not

distribute profit received between the participants (non-commercial organizations)" – Art. 50 (1) of the RF Civil Code.

Para. 3 of the above-mentioned article stipulates that legal persons which are non-commercial organizations may be created in the form of consumer cooperatives, social or religious organizations (associations), institutions, charitable and other foundations, as well as other forms specified by law.

Para. 3(2) of Art. 50 of the RF Civil Code provides for that non-commercial organizations may engage in entrepreneurial activities only to the extent that such activities further the goals for which they were formed, and correspond to these goals.

The above-mentioned provisions of the RF Civil Code are further developed in Art. 2 of a special Law – Federal Law of 12 January 1996 No 7-FZ "On non-commercial organizations" (amended of 16.11.2011 No 317-FZ); it defines that a non-commercial organization is the one which does not have the making of profit as the primary purpose of its activities and which does not distribute profit received between the participants (para. 1). Para. 2 of the above-mentioned article specifies that non-commercial organizations may be created to achieve (1) social, (2) charitable, (3)cultural, (4) educational, (5) scientific and (6) administrative goals, with the aim of (7) health care of population, (8) development of physical culture and sport, (9)meeting spiritual and other non-material needs of people, (10) protection of rights, legal interests of individuals and organizations, (11) settling disputes and conflicts, (13) other purposes aimed at public benefit.

As it follows from the meaning of Art.2 of the Federal Law "On non-commercial organizations", it does not aim to give a complete list of all kinds of activities which are considered non-commercial. To solve the issue of considering some kind of activities as "non-entrepreneurial", it is necessary to rely on the general definition of entrepreneurial activity established in the above-mentioned Art. 2 of the RF Civil Code. All kinds of activities which do not meet the respective criteria of Art. 2 can be considered as non-entrepreneurial (non-commercial)[2] and taxed with the account of some special rules established in the RF Tax Code for these kinds of activities.

It should also be noted that the RF Tax Code does not offer any alternative definition of the term "*entrepreneurial / non-entrepreneurial activities*", "*non-commercial/ commercial organization*". Here we have to apply the general principle established in Art. 11 (1) of the RF Tax Code according to which the terms and concepts coming

[2] Here we do not look at the issues of differentiating between "non-entrepreneurial" and "non-commercial" (or respectively "entrepreneurial" and "commercial") activities which are sometimes pointed out in the doctrine of Russian business law. From the taxation perspective this theoretical issue is of little practical significance.

from other branches of legislation (in this case from civil legislation) shall be understood in tax legislation as they are defined in those other branches.

3. Special forms of legal entities required for non-profit status

Russian civil legislation does not directly regulate the issues connected with non-entrepreneurial activities of commercial organizations. Anyway, the legislation does not oblige commercial organizations in all situations to be guided by considerations of the highest profit possible. In civil legislation we can only find some prohibitions for commercial organizations in conducting certain non-commercial operations. For instance, the RF Civil Code prohibits gifts between commercial organizations: they may be deemed to be invalid transactions. However, this prohibition is mostly explained by the legislator's intent to prevent any abuse and sham transactions (also taking into account tax considerations).

Tax legislation in certain cases provides for unfavorable consequences for commercial organizations if they conduct operations of non-commercial nature. For instance, by virtue of Art. 251 of the RF Tax Code commercial organizations, when computing tax on profit, cannot, as a rule, decrease their taxable profit deducting the expenses incurred in connection with non-commercial operations, as they were not aimed at gaining this profit (i.e. the expenses incurred do not have any economic connection with the profit).[3]

Thus, though there is no general ban for commercial organizations to conduct not for profit operations it is assumed that it is non-commercial organizations that have a special legal status engage in non-commercial activities. The civil legislation does not intend to establish a closed list of their forms (i.e., hypothetically, any special law, if it is necessary, might establish an additional organizational form for non-commercial organizations). But their main forms are defined in Articles 6 – 11 of the Federal Law "On non-commercial organizations".

They may be classified as follows:

1) Social and religious organizations (associations) – Art. 6);
2) Some traditional social and cultural associations, namely – associations of indigenous smaller nationalities of Russian Federation (Art. 6.1) and Cossack societies (Art. 6.2);
3) Foundations (Art. 7);

[3] Here we do not look at the special rules concerning charitable activities which can be conducted by commercial organizations and concerning some forms of asset transfers from commercial organizations to non-commercial ones. We will look at these special issues later.

4) Special state agencies which may be divided into two groups according to a number of formal features and named by different (though quite similar in their meaning) terms – state corporations (Art. 7.1) and state companies (Art. 7.2);
5) Non-commercial partnerships (Art. 8);
6) Institutions among which are: private institutions (Art. 9) and public (state, municipal) institutions (Art. 9.1). The latter, in their turn, are subdivided into autonomous, budget-supported and fiscal (Art. 9.1 (2));
7) Autonomous non-commercial organizations (Art. 10);
8) Amalgamation of legal persons (associations and unions) (Art. 11).

All the above-mentioned forms of non-commercial organizations may significantly differ in what legislation establishes for the system of management (the procedure for managing an organization and creating its executive bodies), property rights of the members/participants/founders of an organization, etc. However, the form of a non-commercial organization is only of significance for tax regulation in a limited number of cases when it is directly established by the RF Tax Code (for instance, special preferential tax regimes for public budget-supported institutions and so on).

4. Special rules for non-resident or international non-profit entities

Art. 1 of the Law "On non-commercial organizations" states that it applies not only to all non-commercial organizations founded on the Russian territory (Art. 1 (1)) but also establishes the compliance rules for the structural subdivisions (branches) of foreign non-commercial and non-governmental organizations on the Russian territory (Art. 1 (2.1)). By virtue of Art.1 (2.2) of the Law, its provisions concerning the rules for creating and conducting activities on the Russian territory of structural subdivisions of non-governmental organizations apply to subdivisions of international governmental organizations insofar as they do not contradict the international treaties of the Russian Federation.

Russian legislation gives the definition of a "*foreign non-commercial organization*" in Art.2 (4) of the above-mentioned Law. This article states: "A foreign non-commercial non-governmental organization in this Federal Law is deemed to be an organization which does not have the making of profit as the primary purpose of its activities and does not distribute the profit received between the participants, which is founded outside the Russian territory in accordance with the legislation of a foreign state, and the founders of which are not the state authorities".

Thus, this definition: *firstly*, repeats the general interpretation of the concept of a non-commercial organization given in Art. 50 of the RF Civil Code; *secondly*, as a criterion for dividing non-commercial organizations into Russian and foreign ones, it

offers to use an incorporation test (i.e. the criterion of the place of incorporation of a legal entity). It should be noted that from the perspective of tax legislation and taking into account the provisions of most of Russian tax treaties (which generally follow the OECD model) the place of effective management of a respective legal entity (taxpayer) may also be of relevance for determining the taxpayer's status of Russian resident vs. non-resident/foreign resident; *thirdly*, the organizations founded or created with the participation of foreign state authorities are excluded from the concept of a foreign non-commercial non-governmental organization.

Russian legislation on non-commercial organizations assumes that if a foreign organization conducts its activity in Russia, it has to make its presence in the Russian Federation official in a certain way. Thus, Art. 2 (5) of the Federal Law "On non-commercial organizations" states that a foreign non-commercial non-governmental organization conducts its activities on the Russian territory only through its structural (territorial) subdivisions – branches or representative offices. Articles 2 (2) and 2 (3) underline: "a structural (territorial) subdivision – a part of a foreign non-commercial non-governmental organization is recognized as an independent form of non-commercial organization and is subject to state registration in accordance with the procedure defined by Art. 13.1 of this Federal Law".

Structural (territorial) subdivisions – branches and representative offices of foreign non-commercial non-governmental organizations acquire a legal subjectivity in the framework of the Russian legal system on the day the information about the respective structural (territorial) subdivision on the Russian territory is included, in accordance with the procedure provided for in Art.13.2 (3) of the Federal Law, into the list of the branches and representative offices of international and foreign non-commercial organizations. These provisions of the Law are quite peculiar, as in essence, assume giving the structural (territorial) subdivisions of foreign non-commercial organizations operating in the Russian Federation an independent legal status, that is equaling them (these subdivisions) in their status to domestic legal entities (after going through an appropriate registration, namely as subdivisions, but not as legal entities)[4].

Thus, the paradox is that a structural subdivision of a foreign non-commercial organization, *on the one hand*, is a part of a foreign legal entity (in accordance with the legislation of the country where this non-commercial organization is created)[5], *on*

[4] See e.g. on this issue: *Borisov A. N.* Comments on the Federal Law "On non-commercial organizations", Moscow, Yustitzinform, 2007 (Comments to Art. 2).

[5] In this respect, of interest is the phrasing of Art. 83 (3) of the RF Tax Code. According to it, the registration with tax authorities of a foreign non-commercial organization is done at the place of conducting its activities on the Russian territory through its subdivision. So, it is not the subdivision of a

the other hand, is a person actually equaled to an independent legal entity in accordance with the Russian law.

The RF Tax Code follows this quite a controversial model of regulation established in the RF civil legislation. Art. 9. (1 and 2) and Art. 11 (2) of the RF Tax Code recognize branches and representative offices of international organizations and of foreign companies/ organizations and other corporate bodies having a civil status ("subjectivity") and created in accordance with legislation of foreign states as independent participants of tax law relations (i.e. as independent taxpayers)[6].

As it is known, Russia is not an EC Member-state. However, the Partnership Agreement concluded in 1994, ratified in 1997 and prolonged up till now, assumes the application of some fundamental freedoms between the Russian Federation and the EC in the sphere of economic activities.

Though the special status of structural (territorial) subdivisions of foreign non-commercial organizations should not cause for them any obstacles of tax nature, which would contradict the Partnership Agreement (due to the fact that they actually fall under the national tax treatment), in a number of cases, however, some issues may arise in this sphere. They, in particular, can be connected with the following: *firstly*, the difficulties in registration of these structural (territorial) subdivisions as it is actually feasible only on the national (federal) level[7]; *secondly*, the fact that though the structural (territorial) subdivisions of foreign non-commercial organizations are considered as the forms of legal entities, which are established according to Russian law, the interpretation of Art.11 of the RF Tax Code refers them to foreign organizations, i.e. *non-residents*. This point does not always allow to clearly define whether a resident or non-resident tax treatment should be applied in regard to them (if it is not specified in a particular provision of the RF Tax Code).

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non-commercial organization that is registered with tax authorities but the non-commercial organization itself (at the place of its subdivision's location).

[6] *Tyukavkin-Plotnikov A.A.* Separate subdivisions of a legal entity, *Business law*, 2007, No 2. Some authors offer to reject such a regulation model and replace it by an approach which only includes accreditation of structural (territorial) subdivision of non-commercial organizations as it was provided for in investment relations of commercial organizations – see Art. 2.1 of the Federal Law of 9 July 1999 No 160-FZ "On foreign investments in the Russian Federation".

[7] For more details see: *Grishaev S. P.* Non-commercial organizations, E-Database Consultant-Plus, 2010.

II. Income Tax

1. Material conditions for special tax status

Art. 246 (1) of the RF Tax Code provides that taxpayers of tax on profit are Russian organizations and foreign organizations conducting their activities through permanent establishments or receiving income from the sources in Russia. This general definition of taxpayer of tax on profit allows to make a conclusion that the Russian legislator follows from the general presumption by virtue of which non-commercial organizations, according to the general rule, are not excluded from the number of taxpayers of this tax. In principle, Chapter 25 of the RF Tax Code (which defines the tax treatment of profit) provides for two most obvious exemptions for taxpayers:

firstly, exemption in regard to some taxpayers involved in the organization of the XXIInd Olympic winter games and the XIth Paralympics winter games of 2014 in Sochi (Art. 246 (2) of the RF Tax Code);

secondly, exemption in regard to persons recognized as participants of the project of conducting research, development and commercialisation of their results in accordance with the Federal law "On the innovation centre "Skolkovo" (Art. 246.1 (3) of the RF Tax Code).

Though these exemptions from tax on profit are not directly connected with the status of a non-commercial organisation, the goal of these privilege clearly shows that to meet the criteria of these privileges a taxpayer has to conduct the activity that is non-commercial, at least, in its final goal, that is aimed not as much at gain of profit, but rather at implementation of certain programs in developing sport – in the first case, and the activity connected with scientific research and its implementation – in the second case.

In regard to most of other persons who are recognized as taxpayers the object of taxation is defined according to the rules of Art. 248 of the RF Tax Code. In particular, this article names as taxable income (1) the incomes from the sale of goods (works, services) and property rights (*income from sale*) and (2) *non-sale incomes*; different kinds of expenses (connected with sale /or with non-sale operations) may be deducted only from respective kinds of incomes.

According to Art.250 (8) of the RF Tax Code, to the category of non-sale incomes belong the incomes received in the form of transferring property (works, services, or property rights) without consideration.[8] The incomes of such nature (being received by non-commercial organizations) may be exempted from taxation in

[8] See also: Federal Law No 328-FZ of 21 November 2011 "On changes in legislation of the Russian Federation concerning the rules for forming and using special target funds of non-commercial organizations".

accordance with Art. 251 of the RF Tax Code – for more detail see section No3 of this part of the report.

Thus, in many cases in Russian legislation we can see two *material criteria* for receiving certain exemptions concerning taxation of non-commercial organizations in regard to tax on profit. The *first one* – the nature of activity and its goal which is not connected with gain of commercial profit (see: the definition of entrepreneurial activity in Art. 2 of the RF Civil Code); the *second one* – the organizational and legal form of a non-commercial organization (Articles 6 – 11 of the Federal law "On non commercial organisations").

Other aspects (remuneration or benefits of the members or employees of an organisation, etc.) may only be evaluated additionally in order to see whether some facts may demonstrate a controversial nature of taxpayer's status and his intention to disguise standard entrepreneurial operations as non-commercial activity. In the latter case the legal position of the RF Supreme Commercial Court may be applicable; it is expressed in Ruling (guideline) No 53 of 12 October 2006 "On what might be deemed tax evasion and avoidance". The essence of it is that the taxpayer may be refused to give exemptions provided for by tax legislation if he intends to get an "unjustified tax benefit", that is there are no real economic and legal grounds to receive it (e.g. a tax benefit based on transactions of sham nature).

2. Formal conditions for special tax treatment

The formal conditions for receiving different tax privileges and exemptions for non-commercial organizations and certain kinds of non-commercial activities are not systemized in the RF Tax code and, consequently, being dispersed in different casuistic tax rules, may greatly differ in their nature (or not be established by legislator at all in regard to certain situations). In order not to turn this text into a mechanical listing of these dispersed conditions of formal character, I will mention some of the most frequently found types of such conditions:

1) the types of exempted operations and the list of grantors (the donations from which are exempted from taxation) must be included in a special list approved by the RF Government;
2) the procedure of special registration of taxpayers who have to be participants of special projects (e.g. the innovation centre "Skolkovo" or the projects connected with the Olympic and Paralympics winter games of 2014 in Sochi; such a registration and the official status of "a participant of the project" are deemed to be an obligatory condition for getting preferential tax treatment;
3) the licenses (received in a procedure stipulated by law) to conduct a special non-commercial activity (e.g. education, medicine, etc.) as one of the formal conditions for receiving tax benefits by taxpayer;

4) the reports on the results of the non-commercial activity and on the expenditure of the funds raised for it and (or) obligatory bookkeeping of incomes and expenditures in regard to the non-commercial activity which falls under the special tax treatment separately from the incomes and expenditures in other kinds of activities which do not fall under the special (more favourable) tax treatment;

   (For instance, it is established that taxpayers who received property (including monetary funds), works, services, for their charitable activity or any other target contributions in accordance with Federal Law No 328-FZ of 21 November 2011 "On changes in legislation of the Russian Federation concerning the rules for forming and using special target funds of non-commercial organizations" have to submit to the tax authorities a report on the application of the funds received in a form approved by the RF Ministry of Finance – Art. 250 (4) of the RF Tax Code).[9]

5) Other formal conditions, also those which present different combinations of some of the above mentioned.[10]

3. Income from purely non-profit activities

Special tax treatment in regard to the tax on profit is provided for some non-entrepreneurial kinds of activity; the taxpayer's receipts in the framework of this kind of activity are usually formed due to different contributions, donations and grants from other persons (organisations and individuals).

Let us look at the most significant and relevant tax rules concerning these issues.

The tax base in regard to the tax on profit does not include the following incomes of taxpayer[11]:

1) Funds or other property which are received as financial aid (support) in accordance with procedure stipulated by the Federal Law "On financial aid (support) to the Russian Federation and changes and amendments in certain

[9] In accordance with Art. 250 (14) of the RF Tax Code to taxable non-sale incomes belong also property (including monetary funds), works, services used by a taxpayer (non-commercial organization) not for a special purpose they were intended for but which were received for charitable activity in the form of donations, contributions, etc., excluding budgetary funds (in regard to budgetary funds used not for a special purpose they were intended for the rules of budgetary legislation are applied).

[10] Thus, in 2006 the Federal Law "On special target funds" was adopted which establishes a limit of 10% in regard to the sums that may be spent for its own needs by a non-commercial organization raising funds for a special purpose. Though this limitation is of a wider character and is established in a "non-tax" law, it is quite important when calculating the tax base in regard to the respective non-commercial organizations as any target funds spent by them not for the "special purpose" (in excess of the above-mentioned 10% limitation) are treated as their taxable profit.

[11] See also the general rule of Art. 39 (3 (3)) of the RF Tax Code: the transfer of funds or other property to a non-commercial organization for the needs of conducting the respective non-commercial activities is not deemed to be sale of goods (works or services).

legal acts on taxes and on establishing privileges in regard to payments into state extra-budgetary foundations" – Art. 251 (1 (6)) of the RF Tax Code;

2) Property received by state or municipal institutions in accordance with the decisions of the respective executive authorities (federal, regional, municipal) – Art. 251 (1 (8)) of the RF Tax Code;
3) Property received by the taxpayers for a special purpose. Additionally, the taxpayers who received funds for a special purpose have to have separate bookkeeping of incomes and expenditure in regard to funds for a special purpose – Art. 251 (1 (14)) of the RF Tax Code[12];

   To the funds for a special purpose belongs the property received by a taxpayer and used by him for the purpose defined by a donator or by federal laws, in particular:

   - In the forms of grants. Funds and other property are deemed to be grants if their transfer (receipt) meets the following conditions:

     firstly, grants are given free and irrevocably by Russian residents or by foreign and international organisations according to the list of such organizations approved by the RF Government for conducting certain programs in education, art, culture, health care of population, environment protection, defence of human rights and freedoms provided for by Russian legislation, social aid to poor and socially unprotected groups of population, and also for carrying out concrete scientific research;

     secondly, grants are given on the conditions determined by the grantor, the report on the use of the grant for the special purpose being submitted;
   - In the form of funds to build the Russian foundation for technological development, and also other foundations for financing research and design works which are registered in accordance with the procedure stipulated by Federal Law No 127-FZ of 23 August 1996 "On Scientific research and the national policy in science and technology";
   - In the form of insurance contributions of the banks into the insurance foundations in accordance with the federal legislation on insurance of deposits of individuals in the Russian banks;
   - In a number of other cases;
4) In the form of property (including monetary funds) received by a religious organization for conducting religious rites and ceremonies and from the sale of religious literature and things of religious nature – Art. 251 (1 (27)) of the RF Tax Code;

[12] If the taxpayer who received funds for a special purpose does not have such bookkeeping, these funds are deemed to be taxable since the date of their receipt.

5) In the form of property (works, services) received by medical organizations conducting medical activities within the system of compulsory medical insurance, from insurance organisations, from the reserve funds for financing preventive measures, according to the procedure stipulated by law – Art. 251 (1 (30)) of the RF Tax Code;

Besides, according to Art. 251 (2) of the RF Tax Code, when calculating tax base, the funds and property for specific purposes (excluding those in the form of excised goods) are not taken into account. Here belong the funds for the support of non-commercial organisations and conducting their activities which: (1) were given free of charge (2) according to the decisions of state or local authorities or the decisions of the state extra-budgetary foundations, or (3) received from private organisations or individuals and used by the taxpayer for respective special purpose.

To special funds for the support of non-commercial organisations and their activities belong:

1) member fees paid (in accordance with Russian legislation on non-commercial organisations) or donations recognized as such according to the RF Civil Code and some other payments of similar nature;
2) the property transferred to non-commercial organisations according to the will and inheritance;
3) the funds given from the federal, regional or municipal budget for conducting by non-commercial organisations their main activities;
4) the funds and other property which are received from private sources for conducting by non-commercial organisations their main activities;
5) pension contributions into private pension foundations if not less than 97% of them are aimed at building the pension reserves of the respective pension foundation;
6) some other funds.

4. Business income used to support non-profit activities

Previously Russian tax legislation quite often used the model according to which business income of non-commercial organizations was fully directed by them at financing their main (i.e. non-commercial) activity, being exempted from the tax on profit. In particular, such rules were present in Russian legislation on educational activities. Now we can clearly see the intention of the legislator not to introduce the special (preferential) tax treatment on the basis of such conditions.

What is possible is the special tax treatment of business income of the third parties if it is directed to support certain non-commercial organizations and (or) some kind of

non-commercial activity. For instance, according to Art.43 (2 (3)) of the RF Tax Code the payments to a non-commercial organization for conducting its main activity (not connected with business operations) by companies even if they are fully controlled by these non-commercial organizations are not deemed to be dividends.

5. Investment income used to support non-profit activities

The RF Tax Code provides for a number of concrete situations when investment income further used to support non-commercial activity is exempted from taxation. In particular, the following incomes may be exempted:

1) Income from investment of pension savings aimed at financing the accrued part of pension;
2) Income from investment of savings for housing provision of servicemen which should be distributed among personal savings deposits of the participants of the "saving-mortgage system" of housing provision for servicemen (Art. 251 (1 (35)) of the RF Tax Code);
3) Income received by non-commercial organisations from the managing trust companies in accordance with the Federal Law "On forming and using special target funds of non-commercial organizations" (Art. 251 (2 (14 and 15)) of the RF Tax Code);
4) Some other similar income.

6. Remuneration or reimbursement of expenses

Though there are no general rules concerning remuneration and reimbursement of expenses for employees of non-commercial organisations in particular we can give some examples when they fall under a special (preferential) tax treatment.

Art, 217 of the RF Tax Code (Chapter 23 "Income tax on individuals") establishes that the following kinds of income of individuals are not taxable (exempted from taxation):

1) Incomes in monetary form and in kind received in the period of organising and holding the XXIInd Olympic winter games and the XI Paralympics winter games of 2014 in Sochi by individuals who have employment contracts with the marketing partners of the International Olympic Committee (in case of meeting a number of conditions) – Para. 50;
2) Incomes in the form of reimbursement of the expenses for visa (including visa invitations and other similar documents), travelling, accommodation, meals, training, postal services, uniforms, transportation services, translation services, souvenirs received from the non-commercial organisation "the Organisational

Committee of the XXIInd Olympic winter games and the XI Paralympics winter games of 2014 in Sochi";

3) Some other incomes of employees and individuals equalled to them in certain cases directly mentioned in the RF Tax Code.

7. Gifts, contributions and public subsidies in the tax base

As in the Russian Federation there is no special tax on gifts, the tax treatment of gifts, contributions and public subsidies is provided for by Chapter 25 of the RF Tax Code ("Tax on profit of organizations") in the framework of the legal regime for profit tax. As a rule they are exempted from taxation if they are used in accordance with the main purpose of activity of the respective non-commercial organization (see: No 1 – 3 of this section of the report).

8. Accumulation of income and/or wealth

The main rules for accumulation of income and/ or wealth in non-commercial organizations have been looked at in the previous parts as they are fully incorporated in the general system of the rules establishing the status of a non-commercial organization (i.e. civil legislation including the Federal Law "On non-commercial organisations") and the tax treatment of its profits/incomes (i.e. Chapter 25 of the RF Tax Code).

9. Liquidation of a non-profit organisation

Chapter 25 of the RF Tax Code does not establish special comprehensive rules for the tax consequences of the liquidation of non-commercial organisations.

However, some rules of principle character which determine the most typical situations can be mentioned:

1) the rule in Art. (2 (1)) of the RF Tax Code provides for that the payments in case of liquidation of an organization to the participant of this organization in the monetary form or in kind which do not exceed the contribution of this participant into the share capital of the organization are not deemed to be incomes (dividends);
2) the rule in Art. 250 (17) of the RF Tax Code establishes that the incomes in the form of repayments from a non-commercial organization of the previously paid contributions in case these contributions have been previously entered into the expenditures when defining the tax base, may be deemed to be taxable incomes;

Some other provisions which develop the above-mentioned principles may also be found.

However, in case of liquidation of a non-commercial organization the legislator mainly follows from the presumption of an "ideal situation" when all the property and incomes of a non-commercial organization are spent for the main statutory purpose defined when founding the respective non-commercial organization which means that no tax issues connected with the redistribution of property in the framework of liquidation will arise.

10. Deductions of gifts and contributions

In Chapter 23 of the RF Tax Code the legislator allows in the specially provided cases deductions of taxpayer's expenditures aimed at financing of non-commercial organizations and their specialized activities. In particular, within certain limits the deduction of expenditures on charitable activity from the tax base in regard to the tax on income of individuals is allowed – Art. 219 (1 (1)).