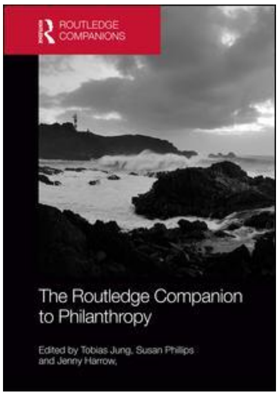
This article was downloaded by: *10.2.97.136*
On: 01 Apr 2023
Access details: *subscription number*
Publisher: *Routledge*
Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: 5 Howick Place, London SW1P 1WG, UK


ROUTLEDGE
COMPANIONS
The Routledge Companion to Philanthropy
Edited by Tobias Jung, Susan Phillips and Jenny Harrow

The Routledge Companion to Philanthropy

Tobias Jung, Susan D. Phillips, Jenny Harrow

The fiscal treatment of philanthropy from a comparative perspective

Publication details
https://test.routledgehandbooks.com/doi/10.4324/9781315740324.ch15
Calum M. Carmichael
Published online on: 17 May 2016

How to cite :- Calum M. Carmichael. 17 May 2016, *The fiscal treatment of philanthropy from a comparative perspective from:* The Routledge Companion to Philanthropy Routledge
Accessed on: 01 Apr 2023
https://test.routledgehandbooks.com/doi/10.4324/9781315740324.ch15

PLEASE SCROLL DOWN FOR DOCUMENT

Full terms and conditions of use: https://test.routledgehandbooks.com/legal-notices/terms

This Document PDF may be used for research, teaching and private study purposes. Any substantial or systematic reproductions, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The publisher shall not be liable for an loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

15

The fiscal treatment of philanthropy from a comparative perspective

Calum M. Carmichael

Since antiquity, private persons have voluntarily contributed their resources in order to provide certain goods and services, either to their societies as a whole, or to particular groups with whom they have no immediate or personal ties; for as long, governments, recognizing how such voluntarism could undercut or support their own objectives, have sought either to discourage the donors, or to encourage and guide them. Through various means, governments seek to influence not only the amount and form of the contributions, but also their deployment – the organizations that receive them, the goods and services that are to be provided, and the groups that are to benefit (Carmichael, 2009, 2011). In wielding this influence, they have attempted to strike a balance between protecting options and employing compulsion so as to preserve, but also enlist and direct the underlying voluntarism.

With the development of tax systems capable of distinguishing donors, the donee organizations, and the contributions themselves, governments acquired additional tools with which to wield this influence. These fiscal tools now include subsidies for contributions, as well as tax reductions for donee organizations. The subsidies lower the outlay that donors must make in order to provide organizations with a given quantity of funds, doing so by offering either the donee a matching grant, or the donors a deduction from income otherwise taxed, or a credit against taxes otherwise paid. The tax reductions could involve exempting from taxation the organizations' income on investments or business activity, or they could involve lowering or eliminating the goods and services (GST) or value added tax (VAT) that the organizations collect on their outputs. By awarding such fiscal privileges, governments fund the donee organizations indirectly by forgoing tax revenues – as opposed to either funding them directly through grants or contracts, or funding government agencies that provide similar goods and services to similar groups.

This chapter performs two tasks: it categorizes the theoretical rationales for governments awarding fiscal privileges to certain types of nonprofit organizations; and it reviews the actual practices by which eight national governments both identify these eligible organizations, and award three types of privileges. It does so in recognition of the enduring importance, heightened in an era of ongoing fiscal consolidation, of questions that deal with why, and how, any privileges should be awarded. The chapter does not answer these questions. Rather, it compares existing rationales and practices in the hope of assisting researchers and practitioners to become more aware of contending outlooks and approaches, and hence better able to situate and perhaps reappraise their own. Most of the theoretical rationales for why fiscal privileges should be awarded have been developed over the past 40 years by American tax scholars – subsequent to the introduction of many of the privileges that now exist, and unrelated to many of the countries in which they now operate. The eight national governments that have been selected to illustrate how the privileges are being awarded are Australia, Canada, Germany, India, Japan, Sweden, Turkey, and the US. This sample includes Asia, Europe and North America. It also combines both common and civil law traditions, represents the four 'nonprofit regime types' proposed by Salamon and Anheier (1998), and demonstrates the diversity of contemporary practices.

Rationales for fiscal privileges

Various theoretical rationales have been offered to justify the existence and design of fiscal privileges which apply to certain nonprofit organizations. Here, they are categorized according to whether their arguments are based on procedural, deontological, or consequentialist grounds.

Exercising democracy

The first category assumes that it is the role of governments to allocate their indirect funding in response to the demonstrated preferences of donors. This would enable governments both to facilitate a form of direct democracy and avoid the need of determining independently the appropriateness or effects of their fiscal choices. With respect to exempting an organization's income from taxation, Hall and Colombo (1991) recommend that governments provide this privilege only to organizations for which contributions make up a sizable proportion, say, one-third of gross revenues. Eligibility would thus be determined by the relative 'deservedness' of organizations as demonstrated by donors, rather than by the 'ad hoc normative judgments' or 'intensely empirical inquiries' of governments (Hall and Colombo, 1991: 1388). With respect to subsidizing contributions, Levmore (1998) endorses this privilege as a means by which governments can tie their indirect funding to the philanthropic 'ballots' cast by donors. Schizer (2009) and Benshalom (2009) make the same endorsement, but add, respectively, that subsidies might encourage wealthy donors to monitor donee performance and that higher subsidies for poorer donors might temper the plutocratic implications of treating contributions as votes.

Ensuring Fairness

The second category of rationales assumes that governments' role is to provide donors or donees with fair or due treatment. In some instances, the notion of due treatment is based on assertions that either the motive of donors or the stature of donees is sacrosanct. In other instances, the notion is based on assertions that the income or transactions in question are unattributable or unmeasurable, and hence not suited to taxation. With respect to donor motive, Atkinson (1990: 635) describes the action of donors and the provision of goods and services by donees as being 'altruistic', and hence 'inherently desirable and prima facie worthy of encouragement through tax exemption'. With respect to donee stature, Brody (1998: 586–87) justifies extending fiscal privileges to charitable organizations on the basis of governments perceiving them as a 'parallel sovereign' deserving independence and containment: paraphrasing Matthew 22:21, 'charities go untaxed because Caesar should not tax God (or the modern secular equivalent)'. With respect to income being unattributable, Bittker and Rahdert (1976) point to conceptual and practical difficulties in calculating the net income and appropriate tax rate for nonprofit organizations. On the basis of 'established principles of income taxation', they argue that such organizations are 'not suitable targets' (Bittker and Rahdert, 2006: 357, 304). Rushton (2007) also supports exempting from taxation the net income of nonprofit organizations, not because the income is difficult to calculate, but because it, unlike the retained earnings of corporations, is not owned by private shareholders. In regard to transactions being unattributable, Andrews (1972) and Buckles (2005) start with a 'Haig-Simons' definition of taxable income which comprises consumption plus accumulated wealth. By their account, contributions lie outside that definition because they do not divert scarce resources to the exclusive use of the donor. Thus they should be deducted from the donor's taxable income, and thereby subsidized. Aujean *et al.* (1999: 146) and Ebrill *et al.* (2001: 90-93) refer to the conceptual and practical difficulties of taxing transactions for which no explicit consideration or return payment can be identified. Such difficulties may be associated with the types of outputs that nonprofit organizations provide either at no charge or at fees below market value, and therefore warrant lowering or eliminating a GST or VAT.

Increasing welfare

The third category of rationales assumes that the role of governments is to correct so-called 'market failures', that is, transactions for which the participating sellers and buyers do not perceive or experience the full social costs and benefits involved. Because of this, the sellers and buyers might choose types and levels of transactions that either leave in some avoidable social costs, or leave out some potential social benefits. Governments can reduce the ensuing losses in social welfare by judiciously taxing or subsidizing the transactions or their participants.

As regards exempting an organization's income from taxation, Weisbrod (1975) describes a political system in which the government responds to the preferences of the median voter, and an economy in which collective goods can be provided alternatively by the government using taxes, corporations using profits, or nonprofit organizations using contributions and government funding. In this system, the government could improve the well-being of the median voter by providing fiscal privileges to nonprofit organizations, particularly if citizens differ greatly in their tastes for such goods. Alternatively, Hansmann (1981) describes a situation in which nonprofits' 'nondistribution constraint' (discussed in the next section) not only reduces the supply of their products by blocking the organizations from capital markets, but also increases the demand for their products by making the organizations more trustworthy. In this circumstance, the government could alleviate the ensuing excess demand by exempting the organizations from income tax. Drawing upon Weisbrod and Hansmann, Steinberg (1991: 362) argues that nonprofit organizations satisfy 'diverse demands for public goods', 'innovate and experiment' in the type, delivery and management of services, and hence provide a 'benchmark' and a 'competitive check on governments'. Because of these sector-wide benefits, he proposes that the burden of proof falls on those who would remove or reduce the fiscal privileges awarded those organizations.

In respect to subsidizing contributions, the public finance field in economics has given considerable attention to situations in which donors' incentives overlook the social benefits that would be generated if they were to increase or reallocate their contributions. These situations could exist whether donors' incentives were based either on: the portions of the goods and services they receive (Hochman and Rodgers, 1977); the approbation or 'warm glow' they garner (Andreoni, 1990); or the impact they envisage (Duncan, 2004). Subsidies could lead donors to increase and reallocate their contributions in ways that would raise both their own well-being and social welfare more generally – *if* those subsidies reduced the private costs of donation by amounts that approximated the social benefits that donors would otherwise overlook. Higher subsidies would typically be warranted in situations where contributions are price sensitive (i.e. elastic as opposed to inelastic), where government grants would reduce (i.e. crowd out) rather than increase (i.e. crowd in) contributions, where governments place priority on the goods and services and the populations receiving them, and where nonprofit organizations are more effective or efficient than government agencies (Feldstein, 1980; Roberts, 1987). The optimal subsidy rates would have no relation to the income tax rate faced by donors, and thus should be conferred by a credit, not a deduction (Saez, 2004). What is more, they are unlikely to be uniform across the various activities performed by nonprofit organizations (Carmichael, 2012b).

Finally, in regards to eliminating a GST or VAT, Ebrill *et al.* (2001: 69-78, 93-94) argue that certain outputs that are often provided by nonprofit organizations (e.g. basic food, health, education) generate social benefits beyond the ones received by the immediate consumers. These social benefits would be lost if consumption taxes reduced demand. For governments that place priority on the well-being of the poor, the losses to social welfare would be even greater if the poor spend proportionately more on these outputs than the rich. Ebrill and colleagues (2001) caution, however, that its implications for social welfare are not clear. For one thing, in order to pursue distribution goals, most governments have access to better fiscal tools than reducing consumption taxes. For another, GST or VAT relief for nonprofit organizations might introduce market distortions, not simply correct them.

Overview

These three theoretical rationales for awarding fiscal privileges are normative in the sense that they prescribe what governments should do, rather than describe or predict what governments could or would do. In surveys of the fiscal treatment of nonprofit organizations, such rationales often appear in blended forms (Clotfelter, 2012). Here, however, they are categorized and distinguished according to their assumptions about the *desired* role of governments: whether that is to respond to the priorities of donors (procedural), or to treat donors or donees fairly (deontological), or to correct market failures (consequentialist). So categorized, the rationales can be further distinguished according to their implications about the locus of fiscal authority, the information requirements of governments, and certain attributes of the ideal set of privileges. For example, the first category of rationales, 'exercising democracy', would vest fiscal authority with the donors – the natural or legal persons with the resources and incentives to contribute – making them the arbiters of which nonprofit organizations or subsectors are the most deserving of indirect government funding. The information requirements of governments are thus relatively low, centring on the revenue sources of those organizations and subsectors. The ideal set of privileges, however conferred, would tend to be uniform across the organizations or subsectors that have been identified on the basis of received contributions. The second category, 'ensuring fairness', would vest the authority with governments, making them the arbiters of who is entitled to what. The information requirements are again relatively low, involving the definition and identification of the transactions, forms of income, or organizations that are deemed inviolable. The ideal set of privileges would be conferred through immunity from taxation, whether this applies to the eligible contributions of donors, or to the income and outputs of the eligible organizations. The third category, 'increasing welfare', would also place the authority with governments, making them the arbiters of which groups in society are the most needy, what goods and services are the most needed, and which fiscal tools would allow those groups to receive those services with the least amount of tax revenue either spent or forgone. Thus, the information requirements are relatively high. And the ideal set of privileges, however conferred, would tend to be graduated: greater for those nonprofit organizations or subsectors that provide the most needed goods and services to the most needy groups, or that do so most efficiently and effectively (Carmichael, 2012a: 397-99). For this category, the information requirements include not only the effects of any privileges on the contributions that nonprofit organizations receive and the revenues that they retain, but also the consequences of those effects upon social welfare. By focusing on those effects, the third category of rationales is the one most closely tied to the insights and limitations of empirical work. Such insights include measurements of how contributions have been or might be affected by increases in subsidies or direct funding. Their limitations include the ambiguity that comes from those measurements varying across either the estimation techniques employed, the contending influences controlled for, or the dataset, time period, and jurisdiction selected (Bakija and Heim, 2011: 615-19; Bekkers and Wiepking, 2011: 932-33, 948-49).

Awarding fiscal privileges

By awarding a variety of fiscal privileges, governments can influence the contributions and overall funding that nonprofit organizations receive, the revenues they retain and the kind and amount of goods and services they deliver. In order to wield this influence, regardless of the rationale, governments must decide both the reach and the range of their fiscal tools. That is to say, governments must decide not only the particular nonprofit organizations or subsectors that are eligible, but also the combination of privileges that are awarded. In this section, these decisions are illustrated with reference to the practices circa 2013 by which eight national governments (Australia, Canada, Germany, India, Japan, Sweden, Turkey and US) award three types of privileges (exemption from income tax, elimination of output tax, and subsidization of cash contributions). As described in the next section, the practices differ considerably.

The reach of fiscal privileges

The source, type and adjudicator of the criteria that are used to identify the nonprofit organizations or subsectors eligible to receive fiscal privileges are summarized in Table 15.1. In terms of source, all governments specify in legislation certain criteria required for organizations to hold what is variously referred to as ‘public benefit’, ‘charitable’, ‘public-interest’, ‘tax-privileged’ or ‘tax-exemption’ status. This area of lawmaking has been active in recent years. For example, in 2008, both Japan and Turkey introduced legislation to revise the terms of this status for associations. In 2013, Australia enacted charities’ legislation which provides a statutory (and expanded) definition of charity (ACNC, ND) and amendments to India’s Finance Act in 2009 added preservation of the environment to its list of charitable purposes (ICNL, 2015). All of the governments except Turkey specify in legislation what Hansmann (1980: 838) referred to as the ‘nondistribution constraint’. In order to be eligible, the organizations may earn a profit or show net earnings; however, those earnings may only be used to finance the goods and services that the organization has been approved to provide, and may not be distributed to the private benefit of any persons exercising control, such as members, directors or donors. Germany is an exception as its General Fiscal Law [1976] allows a foundation to use up to one-third of its income for the donor and the donor’s near relatives, without losing its tax-privileged status. Three of the governments – Germany, India, and Turkey – include what Hansmann (1980: 838) referred to as ‘reasonable compensation’ which specifies that nonprofits may not exceed market norms in remunerating persons for their labour, capital, and materials.

Table 15.1 Fiscal definition of philanthropy

	Australia	*Canada*	*Germany*	*India*	*Japan*	*Sweden*	*Turkey*	*US*
Source	Common law; legislation[i]	Common law; legislation[ii]	Legislation[iii]	Common law; legislation[iv]	Legislation[v]	Legislation[vi]	Legislation[vii]	Common law; legislation[viii]
Criteria	Purpose; activity; type of organization; organization	Purpose; activity	Purpose; activity	Purpose; activity; population; organization	Purpose; type of organization	Purpose; type of organization; organization	Purpose; activity; type of organization	Purpose; activity
Adjudicator	Courts; Australian Charities and Not-for-profits Commission; Australian Taxation Office	Courts; Canada Revenue Agency	State tax agencies	Courts; tax commissioners	Public Interest Corporation Commission; Ministry of Finance; National Tax Administration	Swedish Tax Agency; seven county governments	Council of Ministers; Ministry of Finance; other relevant ministries	Courts; Internal Revenue Service

Notes[i]Australia's Extension of Charitable Purposes Act [2004] extends the common-law meaning of charity to include child care, affordable rental housing, self-help groups, and closed or contemplative religious orders. The Australian Charities and Not-for-profits Commission (ACNC), established in December 2012, determines charitable status, and the Charities Act 2013, which took effect in January 2014, introduced a more comprehensive statutory definition of charity. The Australian Tax Office endorses organizations for certain fiscal privileges, accepting the ACNC determination. Under the new statutory definition, political activities that support a political party or candidate for office remain 'disqualifying'; however, political activities that attempt to change public opinion, a law, or government policy related to charitable purposes are not (Australian Government, the Treasury [2011b]).

[ii]The Canadian Income Tax Act [1985] identifies three types of registered charities: organizations that carry on activities that serve charitable purposes as defined in common law; public and private foundations that do not carry on those activities but fund other registered 'qualified donees'. Qualified donees comprise not only charities, but also designated nonprofit organizations (e.g. national amateur athletic associations, low-cost housing corporations, the United Nations). Charities can lose their registration by explicitly supporting a political party or candidate for office, or by using more than ten percent of their resources (20 percent for smaller charities) to advocate changing a law or policy of any government (Canada Revenue Agency, 2003a). New reporting requirements and compliance oversight of political activities were introduced in 2012 (Department of Finance, 2012: 205). Charitable private foundations can lose their registration if they carry on any business activity, although some accommodation was made in the 2015 budget to allow investment in limited partnerships. Charitable organizations and public foundations can lose their registration if they carry on business activity other than what is 'related' (i.e. either run by volunteers, or linked but subservient to their charitable purpose) (Canada Revenue Agency, 2003b). Short of losing their registration, the charities may be liable to a penalty of five percent of their gross revenues from business activity that is not related.

[iii]In Germany, the General Fiscal Law [1976] outlines the conditions for fiscal privileges. These include the organizations (e.g. associations, foundations, limited-liability corporations) operating for 'tax-privileged' purposes. The purposes are either of public benefit, charitable (supporting individuals of low income who are dependent 'on account of their physical, mental, or emotional state', or church-related). These organizations must not use funds to support political parties or candidates for office, although organizations do not jeopardize their status by occasionally engaging in public debate or attempting to influence public opinion on laws or policies related to their tax-privileged purposes.

[iv] Existing legislation in India defines charitable purpose to include: relief of poor, education, medical relief, preservation of environment and monuments or places of historic interest and the 'advancement of any other object of general public utility'. This omits 'advancement of religion': a religious organization or fund can only be charitable if it operates exclusively for the benefit of the underprivileged members of the religious community. The 2015 Finance Bill added yoga as a special category of charitable purpose. It also slightly relaxes but maintains restrictions on business activities of organizations involved in the 'advancement of general public utility;' business activities must be undertaken in the course of carrying out these charitable purposes and revenues must not exceed 20 percent of total receipts. Organizations operating under the other divisions of legal charity can freely engage in 'incidental' business activity conducted in the course of carrying out a charitable activity. Charitable organizations may engage either in basic political education or 'incidental' political activity that involves lobbying and advocacy on matters that advance 'general public utility' or are otherwise related to their charitable purpose. It is understood, however, that such activity cannot be their focus, and cannot support a political party or candidate for office.

[v] To be eligible for fiscal privileges in Japan, nonprofit organizations must implement activities that advance the public interest. Separate laws tied to the Civil Code [1897] enable the Ministry of Finance to certify 'special public interest corporations' that perform certain of these activities (e.g. establishing private schools or hospitals and medical clinics; providing religious services). Alternatively: the Specified Nonprofit Activities Promotion Law [1998] enables the Economic Planning Agency to certify 'specified nonprofit activities corporations' implementing activities among the 17 listed in the Schedule to the Law. The Association and Foundation Law [2008] and the Law on Recognizing Organizations as Public Interest [2008] enable the Public Interest Corporation Commission to certify 'public interest incorporated associations and foundations' implementing activities among the 23 listed in the latter law. These two lists of activities overlap but are distinct. Only 'public interest incorporated associations' and foundations are automatically eligible for fiscal privileges. All other organizations must apply for them – either to the Ministry of Finance or to the National Tax Administration – and meet separate requirements. In general, the organizations may carry on business activity, although the Law on Recognizing Organizations as Public Interest [2008] requires more than half of the profits be used for their public interest activity. In general, the organizations are able to engage in political activity (e.g. supporting political parties and candidates for office; or attempting to change public opinion, a law, or government policy) that is a means of advancing their public interest activities. The Specified Nonprofit Activities Promotion Law [1998] stipulates that 'promoting, supporting, or opposing a political principle' or 'recommending, supporting, or opposing a candidate, a person holding a public office, or a political party' are not in themselves public interest activities.

[vi] Sweden's Income Tax Act [1999] outlines the conditions for fiscal privileges. In some instances, these are by category of organization (e.g. health care facilities and private schools) or by specific organizations (e.g. Swedish Committee for UNICEF). In some instances, these include purposes that differ by organization type; for example, there are six qualifying purposes for foundations (caring of children, funding of education, relief of people in need, promotion of scientific research, promotion of Nordic cooperation, strengthening defence). Other 'public' purposes for associations (religious, charitable, social, political, sporting, artistic, and cultural) are also included.

[vii] In Turkey, the Council of Ministers grants public benefit status to associations and tax-exemption status to foundations on the basis of existing activities that not only fall under certain purpose areas, but also extend beyond a group or region, and reduce the service undertakings of the state: see Foundations Law No. 5253 [2004] Article 27 and Associations Law No. 4962 [2008]. The purpose areas are defined for foundations (health, social aid, education, scientific research and development, culture, environmental protection and forestation), but not for associations. The Council of Ministers acts upon the proposal of the Ministry of Finance and the Ministry of Interior for associations, that in turn take into account the opinions of not only the ministries with activities in the same areas, but also either the Department of Associations or the Directorate General of Foundations.

[viii] The US Internal Revenue Code [1986] §501(c)(3) exempts from income tax 'corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition …, or for the prevention of cruelty to children or animals'. The same list of purposes, less 'testing for public safety', appears in §170(c)(2) to identify the 'public charities' eligible to receive deductible 'charitable contributions'. Both sections limit the political activity of these organizations: they cannot participate in any campaign for elective or appointive public office; churches and foundations cannot make lobbying expenditures to influence legislation; the others cannot regularly make lobbying expenditures above 30 percent of their 'exempt purpose expenditures'.

All eight governments require the organizations to focus their activities on purposes officially recognized as being of 'public benefit', or words to that effect. Only Canada does not provide a statutory reference for such purposes, relying instead on the courts' interpretation of the common law meaning of charity (which identifies four main categories or 'heads' – relief of poverty, advancement of education, advancement of religion, and other purposes beneficial to the community). Other common law countries have itemized in legislation certain purposes deemed 'beneficial to the community': the US since 1894; India since 1961; and Australia since 2004 (Carmichael 2012a: 404-07).

For Canada, Germany, India and the US, the purposes that qualify as eligible for tax benefits are generally the same across organizational types, and these purposes are linked to a common set of privileges. For the other governments, the purposes differ. In Australia, for example, a narrow set of purposes (relief of poverty, sickness, distress, and the like) distinguishes 'public benevolent institutions' from the broader, overlapping categories of 'charities' and 'deductible gift recipients'. In Japan, the 17 activities listed for 'specified nonprofit activities corporations' are only partially represented in the 23 activities listed for 'public interest incorporated associations and foundations'. In Sweden, the qualifying purposes listed for foundations are fewer than the public purposes for associations. Whereas the purpose areas for foundations holding tax exemption status in Turkey are listed in jurisdiction, those for associations holding public benefit status are not.

For most of the governments, certain degrees of political or business activity make organizations ineligible for fiscal privileges; however, the thresholds differ. In terms of political activity, Sweden is the least restrictive: political purposes are among the public purposes for associations, although not for foundations. In India and Turkey, there are no legislated prohibitions or limits. Turkey's Law 5253 [2004] omits the article of the previous statute that forbid associations from 'engaging in any form of political activity', and does not specify new limits; it is understood, however, that anything beyond incidental activity would not be condoned. In Japan, political activity is acceptable if it is a means of furthering an organization's public interest purposes, and does not become a focus or end in itself. In Australia and Germany, supporting or opposing a political party or candidate for office is not permitted, but advocacy or lobbying to change a law or government policy is acceptable if it remains a means, not an end in itself. In Canada and the US, supporting or opposing a party or candidate is not permitted; however, advocacy or lobbying is acceptable (apart from churches and foundation in the US) if the expenditures remain below specified limits. Canada has recently introduced efforts to 'enhance' reporting on these activities and the regulation of charities' compliance in this regard (Blumberg, 2013).

The thresholds also differ for business activity. In Turkey, such activity is permitted, but the income is taxed. In Australia and Japan, it is permitted and at least a portion of the income that is used for the organization's public benefit purposes is exempt from taxation. In Germany, Sweden (for associations) and the US, it is also permitted; the income is exempt, however, only if the activity itself is, respectively, 'dedicated', 'naturally connected' or 'related' to the organization's purposes. In Canada and India, business activity is not permitted unless it is, respectively, 'related' or 'incidental' to those purposes, in which case the income is exempt. For India, if the purposes fall under the residuary division of 'any other object of general public utility', then the restriction is tighter: any business activity with annual gross receipts in excess of one million rupees is not permitted.

In all of the countries, administrative and ultimately judicial or political authorities determine whether or not the purposes and activities of an organization warrant public benefit status. The administrative authorities are variously situated in tax agencies, line departments, or independent commissions – their location conceivably tilting their priorities toward either protecting the tax base, accommodating political pressures, or expanding the sector and its activities. Australia moved the administrative functions from a tax agency to a commission in late 2012; Canada, Germany, India, Sweden and the US position them in tax agencies; Turkey, in a line department; and Japan, in all three, depending on the type of nonprofit organization. The role of political authorities is uniquely explicit in Turkey: the Council of Ministers decides whether to grant tax exemption or public benefit status, taking into account not only the organization's purposes, but also the extent to which its ongoing activities reduce the service undertakings of the state. The role of the courts has been traditionally important in common law jurisdictions. The High Court of Australia, for example, recently decided that political objects are compatible with charitable purposes if they are pursued by advocacy or lobbying to change a law or government policy (*Aid/Watch Incorporated v Commissioner of Taxation* [2010] HCA 42).

The range of fiscal privileges

The significance of public benefit status, or its counterparts, rests primarily on the fiscal privileges that accompany it. These privileges are summarized in Table 15.2, taking into account whether or not they are awarded *exclusively* to the organizations holding the status, *comprehensively* across those organizations, and *uniformly* across those organizations that have been awarded the privileges.

Among the eight governments, Turkey alone does not exempt public benefit associations or tax-exempt foundations from income tax. Most of the others do not award the exemption exclusively to the organizations holding public benefit status. Instead, they award it either to nonprofit organizations generally (e.g. Australia, Canada, Germany, US) or to other nonprofit organizations identified in legislation (e.g. India, Sweden). Across public benefit organizations, Japan does not award it comprehensively (e.g. the income of medical corporations is taxed); and Japan and Sweden do not award it uniformly. In Japan, different types of organizations are able to deduct different amounts – from 20 to 100 percent – of the business income used for their public interest purposes. In Sweden, although both associations and foundations are exempt from taxes on their investment income, only associations are exempt from taxes on their income from real estate or business activity that is 'naturally connected' to their public purposes.

The US does not have a GST or VAT; although India has proposed a national GST, it has yet to introduce one. Among the other six governments that have a GST or VAT, only Canada and Sweden eliminate the tax collected on the outputs of certain organizations holding public benefit status, doing so either by making the outputs taxable, but 'zero-rated' (i.e. the organizations can still claim credits for the tax they pay on inputs purchased to produce the outputs), or by making the outputs untaxed or 'exempt' (i.e. the organizations are treated as 'final consumers of the taxed inputs and cannot claim those credits). The GST relief awarded by Canada is neither exclusive, nor uniform: certain outputs of charitable and some nonprofit organizations are exempt. What is more, these organizations receive a credit – from 50 to 100 percent – of the tax they pay on the inputs used to produce exempt outputs, depending on their area of activity. The VAT relief awarded by Sweden is not comprehensive. Although Swedish foundations collect the tax, associations with public purposes do not: all of their outputs are exempt – in violation of the European Commission's VAT Directive.

Finally, all of the governments except Sweden subsidize the cash contributions made by individuals and corporations to organizations holding public benefit status. In Canada and Japan, the standard subsidy on the contributions from individuals is conferred by nonrefundable income tax credits that are independent of the taxpayer's marginal tax rate. Otherwise, the standard subsidy on contributions from individuals and corporations is conferred by deductions from

Table 15.2 Fiscal application of philanthropy

	Australia	*Canada*	*Germany*	*India*	*Japan*	*Sweden*	*Turkey*	*US*
Income Tax Exemption	yes[1]	yes[2]	yes[3]	yes[4]	yes[5]	yes[6]	no[7]	yes[8]
Exclusive	no	no	no	no	yes	no	NA	no
Comprehensive	yes	yes	yes	yes	no	yes	NA	yes
Uniform	yes	yes	yes	yes	no	no	NA	yes
VAT/GST Exemption	no[9]	yes[10]	no[11]	NA[12]	no	yes[13]	no	NA
Exclusive	NA	no	NA	–	NA	no	NA	–
Comprehensive	NA	yes	NA	–	NA	no	NA	–
Uniform	NA	no	NA	–	NA	yes	NA	–
Contribution Subsidy for Individuals	yes, deduction[14,15]	yes, credit[16]	yes, deduction[17]	yes, deduction[18]	yes, credit or deduction[19,20]	no	yes, deduction[21]	yes, deduction[22]
Exclusive	no	no	no	no	yes	NA	yes	no
Comprehensive	no	yes	yes	yes	no	NA	yes	yes
Uniform	yes	no	yes	no	yes	NA	yes	yes
Contribution Subsidy for Corporations	yes, deduction[14]	yes, deduction[23]	yes, deduction[24]	yes, deduction[18]	yes, deduction[19,25]	no	yes, deduction[21]	yes, deduction[22]
Exclusive	no	yes	yes	no	yes	NA	yes	no
Comprehensive	no	yes	yes	yes	no	NA	yes	yes
Uniform	yes	yes[26]	yes	no	yes	NA	yes	yes

Notes

[1] The Income Tax Assessment Act [1997] exempts nonprofit organizations generally, except for "nonprofit companies" operated for the joint or common benefit of their members. The exempt organizations include the overlapping classes of charities and "deductible gift recipients", as well as "income tax exempt funds" which provide grants to deductible gift recipients and are endorsed by the Taxation Office. The 2011-12 Budget extends the exemption to profits generated by any "unrelated commercial activities" that are directed to the organizations' "altruistic" purposes.

[2] The Income Tax Act [1985] Paragraph 149.1 (1) exempts nonprofit organizations as well as registered charities and other "qualified donees". An exception: the investment income of nonprofit organizations with the main purpose of providing recreational services to their members is taxable above $2000.

[3] The Corporate Income Tax Law [1999] §5 exempts nonprofit organizations including those operated for "tax-privileged" purposes. For the latter, the General Fiscal Law [1976] Part III §§64, 65 does not exempt income from business activity above €35,000 unless the activity is "dedicated" to the tax-privileged purposes (i.e., necessary for achieving them, and not unnecessarily competing with the business activity of non-privileged organizations).

[4] The Direct Taxes Code [2010] Chapter IV exempts the income associated with the charitable activity of nonprofit organizations, including that derived from any "incidental business" conducted in the course of carrying out that activity. The 7th Schedule lists a broader range of funds and organizations "not liable to income tax". The 6th Schedule Paragraph 22 exempts the income of political parties, except that from business activity.

[5] Nonprofit organizations acquire legal personality in part because their main activities are other than the 34 “profit-making activities” identified as taxable by the Corporation Tax Law [1965] Article 5. However, the income of Medical Corporations is not exempt, unless their health care services are tied to academic research, or unless they have been approved by the Ministry of Finance as public welfare hospitals on the basis of receiving fees from the social insurance system. “Public Interest Incorporated Associations and Foundations” may deduct the income from any profit-making activities if it is used for their core public-interest activities; whereas “Special Public Interest Corporations” may deduct 50% of it; and “Specified Nonprofit Activities Corporations” may deduct 20%: Ministry of Finance (FY2008) Tax Reform Main Points.

[6] The Income Tax Act [1999:1229] Chapter 7 exempts types of income for certain organizations. The organizations named in §17 (e.g., private licensed gaming companies, the Nobel Foundation) are taxed only on income from real estate. Foundations operating for the qualifying purposes in §4 are exempt from taxes on investment income. Associations operating for the public purposes in §7 are exempt from taxes on investment income, and income from business activity or real estate that has a “natural connection” to those purposes. By §§5, 9 the exempted income of foundations and associations must be “almost exclusively” dedicated to their qualifying or public purposes.

[7] An exception: public-benefit associations and tax-exempt foundations do not pay corporate tax on membership dues, donations, or grants.

[8] The Internal Revenue Code §§501-530 identifies the nonprofit organizations exempt from income tax. There are exceptions to the exemption awarded to the “public charities” identified in §501(c)(3): for example, by §§511-513, public charities are taxed on income from unrelated business, apart from that either performed substantially by volunteers or involving the sale of donated goods; by §4911, public charities not prohibited from lobbying by §501(h) pay a 25% excise tax on lobbying expenditures that exceed at least 20% of their tax-exempt purpose expenditures; and by §4940, private foundations pay 2% excise tax on net investment income.

[9] An exception: a few outputs are zero-rated only if provided by a charity or deductible gift recipient (e.g., non-commercial sales made at a discount below cost or market value, or accommodation for seniors): A New Tax System - Goods and Services Tax - Act [1999] Chapter 3. The 2011-12 Budget clarifies that any GST concessions do not extend to these organizations’ “unrelated commercial activities”.

[10] The Excise Tax Act [1985] §123(1) Schedule V makes exempt certain outputs supplied by registered charities (e.g., short-term rental accommodation, catering). On their taxable outputs apart from capital and real property, registered charities remit 60% of the GST they collect: Canada Revenue Agency (2008), *GST/HST information for charities*. Certain outputs are exempt if supplied by either charities or nonprofit organizations (e.g., those sold at direct cost, food and accommodation for needy persons). Charities and “qualifying” nonprofit organizations for which government funding is at least 40% of total revenue receive a rebate of 50% of the GST paid on eligible purchases used to produce exempt outputs. Charities and nonprofit organizations that carry on specific activities receive higher rebates: Excise Tax Act [1985] §259. For the activities of school authorities, public colleges, and universities, the rebate is 67% of the GST paid; for the activities of hospitals and health care service providers, it is 83%; and for the activities of municipalities, it is 100%.

[11] An exception: by the Value Added Tax Law [1999] part II §4, outputs of “tax-privileged” organizations engaged in “economic activity” are either subject to the standard VAT rate of 19% if the activity is not “dedicated” to the tax-privileged purposes of the organization, or subject to the reduced rate of 7% if it is.

[12] A VAT was introduced in 2005: however, it has not been adopted by all state governments; and those adopting it do not apply uniform rates, and do not provide credits for the VAT paid on inputs from outside their jurisdiction. The Constitution (115th Amendment) Bill [2011] would allow a GST to be introduced and applied uniformly and concurrently by the central and state governments. The proposed GST would replace all existing indirect taxes – including the state-level VAT.

[13] The Value Added Tax Act [1994:200] Chapter 4 §2 makes exempt all outputs supplied by associations having a public purpose. In 2008, the European Commission ruled this comprehensive treatment of associations’ outputs to be in violation of Article 132 of the VAT Directive that makes exempt only certain “public-interest” outputs. In 2011, the Commission rejected Sweden’s offer to maintain its comprehensive treatment for only associations with a turnover below one million kronor.

[14] The Income Tax Assessment Act [1997] Division 30 defines “deductible gift recipients” as nonprofit organizations or funds that are eligible to receive tax deductible contributions by: being named specifically; falling under one of the listed categories and being endorsed by the Taxation Office; or having been endorsed as a certain type of charity. Those types include public benefit institutions (i.e., charities organized for the direct relief of poverty, sickness, suffering, distress, misfortune, or disability) and health promotion charities. Charities that advance religion are not deductible gift recipients.

[15] Individuals are able to deduct contributions to political parties, up to $1,500.

[16] The Income Tax Act [1985] 118.1 (1) enables individuals to receive a credit for contributions to registered charities and other "qualified donees", up to 75% of their net income. The credit is 15% of contributions up to $200, and 29% thereafter – these rates corresponding to the lowest and highest marginal taxes. For finite periods following certain international disasters, the government has matched the contributions of individuals to organizations engaged in relief (e.g., the December 2004 tsunami in Southeast Asia; the July 2011 declaration of famine in East Africa). Since 2001, the government has also matched individuals' contributions to endowments of approved performing arts organizations. Individuals receive a credit for contributions to political parties calculated as 75% of their contributions up to $400, 50% of additional contributions up to $750, and 33.33% of additional contributions up to $1275.

[17] The Income Tax Law [1997] §10b enables individuals to deduct contributions to organizations operated for "tax-privileged" purposes, up to 20% of their annual income, and up to €1 million divided over 10 years if made to an endowment of such organizations. In addition, §§10(b), 34(g) enable individuals either to deduct or to receive a 50% tax credit on contributions to political parties, up to €1,650.

[18] The Direct Taxes Code [2010] Clause 79 (with reference to the 16th Schedule) enables individuals and corporations to deduct: 50% of their contributions to registered charitable organizations, as well as a range of nonprofit organizations and named funds (e.g., historic buildings of worship for their repair; the National Children's Fund); 100% of contributions to another range (e.g., universities; the Indian Olympic Association); 125% of contributions to universities and research associations if for statistical and social science research; and 175% of contributions to similar institutions if for scientific research and development. Deductible contributions can not exceed 10% of gross income if the allowed deduction is 50%. In addition, Clause 81 enables individuals and corporations to deduct 100% of their contributions to a political party, up to 5% of gross income.

[19] Upon being certified by the Public Interest Corporation Commission, Public Interest Incorporated Associations and Foundations are simultaneously certified as "Special Public Interest *Promoting* Corporations" by the Ministry of Finance, and thus eligible to receive subsidized contributions (italics added). Other nonprofit organizations only become eligible by separately applying either to the Ministry of Finance for similar certification, or (as for Specified Nonprofit Activities Corporations) to the National Tax Administration to be certified as "Tax Deductible". The requirements differ. Among the "Special Public Interest Corporations", Religious Corporations and Medical Corporations other than public welfare hospitals can not be certified to receive subsidized contributions.

[20] In general, individuals may either deduct contributions in excess of ¥2000 to eligible organizations, or they may receive a tax credit for 50% of those contributions: Ministry of Finance (FY2011) Tax Reform Main Points. The deduction or credit applies to contributions of up to 40% of total income.

[21] Individuals and corporations may deduct contributions, up 5% of their taxable income to public-benefit associations or tax-exempt foundations, or up to 10% if those organizations operate in "development priority" regions. Individuals and corporations may also deduct unlimited contributions to foundations for the "maintenance, repair, restoration, or sustenance" of cultural properties: Law 5735 [2008] Article 77.

[22] The Internal Revenue Code [1986] §170(b)(1), (2) enables individuals and corporations to deduct contributions to not only the public charities identified in §170(c)(2), but also two forms of mutual-benefit organizations: veteran associations and foundations, and cemetery companies owned and operated for members. In general, individuals are able to deduct up to 50% of their adjusted gross income, and corporations up to 10% of their taxable income. The American Jobs Act of 2011 (H. Doc. 112-53) (S. 1549) §401 would limit individuals' deduction to 28%, even if their marginal tax rate was higher.

[23] The Income Tax Act [1985] 110.1(1) enables corporations to deduct up to 75% of their net income contributed to registered charities and other qualified donees.

[24] The Corporate Income Tax Law [1999] §9 enables corporations to deduct contributions to organizations operated for "tax-privileged" purposes, either up to 20% of their annual income, or up to .4% of the sum of revenues, salaries and wages.

[25] In general, corporations may deduct up to 5% of their annual income contributed to eligible organizations.

[26] An exception: since 2001, the government has matched the contributions of corporations to the endowments of approved performing arts organizations.

taxable income. Thus for corporations, contributions are treated similarly to business expenses. There are large differences across jurisdictions in the annual limits to the contributions that can be subsidized. On the high end, Australia applies no cap, and Canada limits the contributions from both individuals and corporations to 75 percent of their net income. In the middle, the US, Japan, and Germany, respectively, limit contributions to 50, 40, and 20 percent of individuals' gross income, and 10, five, and 20 percent of corporations' gross income. On the low end, India and Turkey, respectively, limit the contributions to 10 and five percent of gross income for both individuals and corporations. Practices also differ in terms of coverage. Except in Japan and Turkey, the subsidies are not awarded exclusively to the organizations with public benefit status. For example, Australia, Canada, Germany, and India, also subsidize the donations of individuals to political parties, albeit with different rates; the US also subsidizes donations to certain mutual benefit organizations. Australia and Japan do not award the subsidies comprehensively. For example, in Australia, religious organizations – although charitable – do not fall within the categories of 'deductible gift recipients'. And in Japan, religious corporations and medical corporations – although 'special public interest corporations' – cannot receive subsidized contributions. Canada and India do not award the subsidies uniformly. In Canada, for example, following certain international disasters individuals' contributions to relief organizations generate not only a tax credit for the donors, but also a matching government grant for the donee. And in India, the percentage of a donation that can be deducted depends on the donee organization, ranging from 50 percent for most charities, to 175 percent for university-based scientific research and development.

Overview

National governments adopt different practices in order to define the reach and range of the fiscal privileges that they award nonprofit organizations. Sure enough, there are similarities in the practices of the eight governments considered here. In defining the reach of those privileges, for example, all eight require that the eligible organizations focus on certain purposes deemed to be publicly beneficial, and most require that their profits not be distributed and that their business or political activities not exceed certain thresholds. That said, the purposes and thresholds differ not only across jurisdictions, but also across organizational types within some jurisdictions. In defining the range of privileges, most of the governments exempt income from taxation, and also subsidize individual and corporate contributions. Again, however, such exemption and subsidization differ across jurisdictions and organizational types, and differ in terms of whether the privileges are awarded exclusively, comprehensively, or uniformly to organizations. When reforming the range or reach of fiscal privileges, the governments are certainly aware of practices elsewhere (Australian Government, the Treasury, 2011a: 19-28; 2011b: 25-43). Nevertheless, there is little evidence of any international convergence around a set of common or best practices.

There is also limited evidence on the extent to which or specifically how fiscal privileges affect the amount of support from government or the overall size of the nonprofit sector and significance of philanthropy.

Table 15.3 illustrates this third point by summarizing the labour and revenue resources, albeit circa 2000, of the nonprofit sector in seven of the eight countries considered in this chapter. The first row represents the size of the sector in terms of the percentage of the economically active population working in it. Fiscal privileges alone do not explain the large differences, say, between Canada and the US on the one hand, and India and Japan on the other. The final four rows present the percentage breakdown of the sector's revenues coming from four sources: self-generated income; direct funding from government; individual and corporate contributions;

Table 15.3 Revenue and labour resources of nonprofit sector circa 2000

	Australia	*Canada*	*Germany*	*India*	*Japan*	*Sweden*	*Turkey*	*US*
Paid and volunteer workforce as percentage of economically active population	6.3	11.1	5.9	1.4	4.2	7.1	–	9.8
Income as percentage of total revenues	51.0	34.9	21.3	35.2	47.8	31.7	–	47.4
Government direct funding as percentage of total revenues	25.4	45.4	42.5	24.9	41.5	14.6	–	25.6
Contributions as percentage of total revenues	5.1	8.4	2.3	8.9	2.4	4.6	–	10.8
Imputed value of volunteer labour as percentage of total revenues	18.5	11.2	33.9	31.0	8.3	49.1	–	16.1

Data sources: Hall *et al.* (2005); Salamon *et al.* (2004). Turkey was not included in these studies

- For India and Sweden data exclude contributions and volunteer labour for religious worship organizations.
- 'Income' includes membership dues, charges paid directly by clients for supplies, and investment income.
- 'Government direct funding' includes grants, contracts, statutory transfers, and third-party payments that come from all branches and levels of government.
- 'Contributions' include individual and corporate donations, and foundation grants.
- The value of volunteer labour is calculated by converting volunteer labour into full-time equivalent jobs, and then multiplying by the average wage in the particular subsector.

and the imputed value of volunteer labour. Fiscal privileges do not include the government support provided through direct funding. Such support is relatively high in Canada, Germany, and Japan; relatively low in Australia, India, Sweden, and the US. What is more, they do not determine the extent of philanthropy and its significance to the sector. Compare Sweden with Germany and the US, recalling that Sweden does not subsidize contributions, whereas both Germany and the US award a deduction. On the basis of contributions, philanthropy is more significant in Sweden than in Germany – in spite of the Swedish data omitting contributions to religious organizations. And on the basis of combined contributions and volunteer labour, philanthropy is more significant in both Sweden and Germany than in the US.

Concluding observations

The awarding of fiscal privileges to certain nonprofit organizations is now an almost universal policy across market economies. And yet the theoretical rationales for awarding them, and the actual practices of doing so, are very different. This chapter describes these differences. It categorizes and compares the rationales, their assumptions and their implications, and it compares the practices by which eight national governments identify eligible organizations and award three types of privileges. The analysis intentionally does not come up with a 'best' rationale or set of best practices. There are several reasons for this. First, endorsing a rationale or set of practices would require a preliminary agreement not only on the desired role of government toward the nonprofit sector, but also on the desired size and role of the nonprofit sector within the society, economy, and polity of which it is a part – issues that exceed the scope of what can be covered here. Second, it would benefit from a comprehensive and conclusive empirical literature on the effects of fiscal privileges – a literature that does not yet exist in a single jurisdiction, let alone multiple ones. And third, the reach, range, and level of fiscal privileges can influence, but not determine the amount of government support, the size of the nonprofit sector, or the extent and significance of philanthropy.

Although this chapter does not endorse a particular rationale or set of practices, it recognizes the importance of questions around why and how any fiscal privileges should be awarded – and the associated need for researchers and practitioners to consider opportunities and strategies for their reform. The questions around why and how are connected. The desired reach and range of fiscal privileges are not self-evident, regardless of whether one justifies the existence of any privileges in terms of observed donor support, supposed fair treatment, or estimated social welfare. Where and with what criteria is the line to be drawn to separate the organizations or subsectors that are eligible for privileges – on whatever terms – from those that are not? What purposes are they to pursue? What groups are they to serve? What political or business activities are to be permitted? How are such criteria to be enforced, and by what institutions? Among the organizations and subsectors deemed eligible, are some more worthy than others? What combinations and levels of privileges are warranted? Should and can those levels be graduated on the basis of relative worthiness? The areas of inquiry are extensive. By framing and describing the different ways in which the questions around why and how have been addressed, it is hoped that the comparative tasks performed here will assist the researchers and practitioners who are seeking answers for particular jurisdictions.

References

Andreoni, J. (1990) Impure altruism and donations to public goods: a theory of warm-glow giving, *The Economic Journal*, 100(401): 464–77.

Andrews, W. D. (1972) Personal deductions in an ideal income tax, *Harvard Law Review*, 86(2): 309–85.

Atkinson, R. (1990) Altruism in nonprofit organizations, *Boston College Law Review*, 31(4): 501–639.

Aujean, M., Jenkins, M., and Poddar, S. (1999) A new approach to public sector bodies, *International VAT Monitor*, 10(4): 144–49.

Australian Charities and Not-for-Profits Commission (ACNC). (No Date) Legal meaning of charity. www.acnc.gov.au/ACNC/Register_my_charity/Who_can_register/Char_def/ACNC/Edu/Edu_Char_def.aspx [Accessed 25 May 2015].

Australian Government, the Treasury. (2011a) *Better targeting of not-for-profit tax concessions: Consultation paper*. Canberra: Commonwealth of Australia.

——. (2011b) *A definition of charity: Consultation paper*. Canberra: Commonwealth of Australia.

Bakija, J. and Heim, B. T. (2011) How does charitable giving respond to incentives and income? New estimates from panel data, *National Tax Journal*, 64(2): 615–50.

Bekkers, R. and Wiepking, P. (2011) A literature review of empirical studies of philanthropy: Eight mechanisms that drive charitable giving, *Nonprofit and Voluntary Sector Quarterly*, 40(5): 924–73.

Benshalom, I. (2009) The dual subsidy theory of charitable deductions, *Indiana Law Journal*, 84(4): 1046–97.

Bittker, B. I. and Rahdert, G. K. (1976) The exemption of nonprofit organizations from federal income taxation, *The Yale Law Journal*, 85(3): 299–358.

Blumberg, M. (2013) *Five good ideas about registered charities and political activities*. Toronto, ON: Maytree. www.maytree.com/fgi/five-good-ideas-about-registered-charities-and-political-activities.html [Accessed 25 May 2015].

Brody, E. (1998) Of sovereignty and subsidy, *The Journal of Corporation Law*, 21(4): 585–629.

Buckles, J. R. (2005) The community income theory of the charitable contributions deduction, *Indiana Law Journal*, (80) 4: 947–86.

Canada Revenue Agency. (2003a) Political activities. Policy statement CPS-022. Ottawa, ON: Canada Revenue Agency. www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-022-eng.html [Accessed 3 June 2015].

——. (2003b) What is a related business? Policy statement CPS-019. Ottawa, ON: Canada Revenue Agency. www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cps/cps-019-eng.html [Accessed 3 June 2015].

Carmichael, C. M. (2009) Managing munificence: The reform of naval finance in Classical Athens, *Historical Methods*, 42(3): 83–96.

——. (2011) Charity misplaced: The formation in common law of a deficient fiscal concept, *Charity Law and Practice Review*, 13(2): 27–49.

——. (2012a) Dispensing charity: The deficiencies of an all-or-nothing fiscal concept, *Voluntas*, 23(2): 392–414.

——. (2012b) Sweet and not-so-sweet charity: A case for subsidizing contributions to different charities differently, *Public Finance Review*, 40(4): 497–518.

Clotfelter, C. T. (2012) Charitable giving and tax policy in the US. Paper prepared for the CEPR Public Policy Conference on Altruism and Charitable Giving, Paris, 11–12 May.

Department of Finance (Canada). (2012) Jobs, growth and long-term prosperity: Economic Action Plan 2012. Ottawa, ON: Public Works and Government Services Canada. www.budget.gc.ca/2012/plan/pdf/Plan2012-eng.pdf [Accessed 3 June 2015].

Duncan, B. (2004) A theory of impact philanthropy, *Journal of Public Economics*, 88(9–10): 2159–80.

Ebrill, L. P., Keen, M. and Summers, V. P. (2001) *The modern VAT*. Washington, DC: The International Monetary Fund.

Feldstein, M. (1980) A contribution to the theory of tax expenditures: The case of charitable giving. In H. J. Aaron and M. J. Boskin (eds.). *The economics of taxation*. Washington, DC: The Brookings Institution, 99–122.

Hall, M. A. and Colombo, J. D. (1991) The donative theory of the charitable tax exemption, *Ohio State Law Journal*, 52(5): 1379–1476.

Hall, M. H., Barr, C. W., Easwaramoorthy, M., Sokolowski, S. W. and Salamon, L. M. (2005) *Canadian nonprofit and voluntary sector in comparative perspective*. Toronto, ON: Imagine Canada.

Hansmann, H. B. (1980) The role of nonprofit enterprise, *The Yale Law Journal*, 89(5): 835–901.

——. (1981) The rationale for exempting nonprofit organizations from corporate income taxation, *The Yale Law Journal*, 91(1): 54–100.

Hochman, H. M. and Rodgers, J. D. (1977) The optimal tax treatment of charitable contributions, *National Tax Journal*, 30(1): 1–18.

International Center for Not-for-Profit Law (ICNL). (2015) *NGO law monitor – India*. www.icnl.org/research/monitor/india.html [Accessed 25 May 2015].

Levmore, S. (1998) Taxes as ballots, *The University of Chicago Law Review*, 65(2): 387–431.

Roberts, R. D. (1987) Financing public goods, *Journal of Political Economy*, 95(2): 420–37.

Rushton, M. (2007) Why are nonprofits exempt from the corporate income tax? *Nonprofit and Voluntary Sector Quarterly*, 36(4): 662–75.

Saez, E. (2004) The optimal treatment of tax expenditures, *Journal of Public Economics*, 88(12): 2657–84.

Salamon, L. M. and Anheier, H. K. (1998) Social origins of civil society: Explaining the nonprofit sector cross-nationally, *Voluntas*, 9(3): 213–47.

——., Wojciech Sokolowski, S. and Associates. (2004) *Global civil society: Dimensions of the nonprofit sector*, Vol. 2. Bloomfield, CT: Kumarian Press.

Schizer, D. M. (2009) Subsidizing charitable contributions: Incentives, information, and the private pursuit of public goals, *Tax Law Review*, 62(2): 221–68

Steinberg, R. (1991) 'Unfair' competition by nonprofits and tax policy, *National Tax Journal*, 44(3): 351–64.

Weisbrod, B. (1975) Toward a theory of the voluntary non-profit sector in a three-sector economy. In E. S. Phelps (ed.). *Altruism, morality, and economic theory*. New York, NY: Russell Sage, 171–95.