

Reflections 3: What's in a Name?



An Organisation is “A social unit of people that is structured and managed to meet a need or to pursue collective goals. All organizations have a management structure that determines relationships between the different activities and the members, and subdivides and assigns roles, responsibilities, and authority to carry out different tasks”. <http://www.businessdictionary.com/definition/organization.html>

NPO, NGO, NPC, INGO, PBO, SOE, PTY, LTD...these are terms that we often hear but are not always clear about.

Let's start with the very basics: we can broadly divide organisations in government or state-owned organisations, for profit organisations or non-profit organisations.

State Owned Enterprises:

State Owned organisations or enterprises (SOE) are owned by the state or municipalities and are governed by the Companies Act and unique state or municipal finance rules and legislations.

According to Wikipedia¹, the South African government has 24 State owned Enterprises and shares in three For-Profit organisations, namely Sasol, Vodacom and TelkomSA. This number is very conservative as in 2015 the national treasury² listed more than 291 under six categories.

These numbers and the breakdown below exclude municipal SOE's.

National Treasury Classification	Number	Example
Constitutional Entities	9	The South African Human Rights Commission / The Public Protector of South Africa
Major Public Entities	21	Eskom / SAA / SABC
Other Public Entities	154	Brand SA / SANParks
National Governmental Businesses	22	SA Bureau of Standards / CSIR
Provincial Entities	69	Gauteng Gambling Board Natal Sharks Board
Provincial Government Businesses	16	Free State Development Corporation

- https://en.wikipedia.org/wiki/State-owned_enterprises_of_South_Africa
- <http://www.treasury.gov.za/legislation/pfma/public%20entities/2015-04-30%20Public%20institutions%20Sch%201-3D.pdf>

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is a husband and wife team that supports Individuals, organisations and communities in their development.

Jan and Lyn bring together more than 70 years of experience. They share a passion for helping people, teams and organisations optimise their potential.

Although they work together at times, they each have their own unique strengths and consult individually under their own names.

Lyn supports organisations and individuals to bring social wellbeing and change through advocacy, mentoring, training and communication, while Jan works primarily to enhance understanding and support improvement through development/training and systems thinking.

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For-Profit Organisations

A number of different business entity types (legal forms) that have profit objectives are found in South Africa. These differ predominantly in terms of ownership and legal liability.

Possible forms of For Profit Entities:

For-Profit Entity Type (Alphabetical)	Descriptor.
External companies	International companies doing business in SA. (Could also be an NPO, if it complied with and obtained NPO registration)
Co-operatives	A jointly-owned and democratically controlled organisation (for the people by the people). An association of persons focussed on common economic and social needs.
Personal liability companies	Name ends with: Inc. Applies to professional services e.g. lawyers. Not to be confused with Sole proprietorship. Founders / owners take personal legal responsibility for services.
Private companies	Name ends with: Proprietary Limited or (PTY) Ltd. Company owned by a few people (often referred to as owners) and shares in the company are not freely available.
Public companies	Name ends with: Limited or (Ltd.) Company shares are freely available to investors, and are traded on stock exchanges.
Sole Proprietor	A single-owner enterprise. This is similar to a Personal Liability Co but the owner is not a professional. From a tax perspective, the company operates as an extension of personal taxes.
Trusts	A legal entity where someone is bound to hold and administer property (things) on behalf of another person or group.
Close Corporations	Name ends with: cc. Although these companies still exist and operate legally, registration of these ended in 2011.

Non-Government Organisations

NGO or non-government organisations is a broad umbrella for organisations that can be described as non-profit organisations independent of state and international governmental organisations. They are usually funded by donations and may rely heavily on volunteers for their operation. NGOs are very different in structure and operations and are engaged in a wide range of activities.

The NGO sector in South Africa is highly diverse. There are three basic types of legal structures available to NGOs:

- not for profit companies,
- not for profit trusts, and
- voluntary organisations

As the purpose of NGOs is often described as “doing good” or “not doing things for the money”, it is commonly thought that NGOs do not have to adhere to the same rules, regulations, standards and modes of functioning that a for-profit company should. However, there are three specific acts governing the functioning of organisations that operate with a not for profit objective.

Irrespective of the act governing the NGO, a number of commonalities make them different from state owned or profit driven organisations.

- NGOs are established at the initiative of individuals, and not as a result of the passing of a law, or an act of government, or a parastatal corporation, owned or controlled wholly or partly by the government.
- NGOs exist to address a social need, or to advance a purpose in the public interest.
- NGOs are barred from pursuing individual self-interest or private profit, and must apply all their resources to advance the public benefit purpose.
- If an NGO is dissolved, the assets do not belong to the people running it, or its founders; any remaining assets must be transferred to some other NGO having the same, or a similar, purpose.
- NGOs are, by nature, committed to a number of values and principles that are different from those which are typically found in the commercial sector. The primary difference of purpose is that a not-for-profit organisation exists to serve the common good and promote a public benefit, rather than to achieve individual profit or advance self-interest, which is the normal purpose of a for-profit entity.

NGOs are as responsible to ensure that they function in accordance with the appropriate legal principles as any other form of organisation.

Possible forms of Non-Government Organisations:

Entity Type	Descriptor
<p>Voluntary Associations. (e.g Tennis club, Stokvel)</p>	<p>The easiest format to set up and manage.</p> <p>The founding documents are a “Constitution” setting out its objective. (A constitution can be a verbal agreement on an objective and tasks, or a formal written and agreed document.)</p> <p>Does not need to register anywhere (although it can do so) and if not registered, it is governed by common law. (With certain limiting implications)</p>
<p>Not for Profit Trusts (e.g Body Corporates)</p>	<p>Trusts are set up in terms of the “<i>Trust Property Control Act 57 of 1988</i>”.</p> <p>The founding documents are “Trust Deeds” lodged with <u>Master of the High Court</u>.</p>
<p>Not for Profit Company: NPC Created for public benefit, or a cultural or social activity or communal or group interest.</p>	<p>After the enactment of the Companies act, on 1 May 2011 there has been a change in this form of NGO.</p> <p>A NPC is defined by the companies act.</p> <p>It is regarded as a successor to the section 21 company in the 2008 revision of the Act.</p> <p>Must have an object relating to one or more cultural or social activities, or communal or group interests.</p> <p>The founding documents are a “Memorandum of Incorporation” and <u>registered with CIPC</u>.</p> <p>Acquires the characteristics and benefits of a private or public company, but is classified as not for gain.</p> <p>The income and property of an NPC are not distributable to its incorporators, members, directors, officers or persons related to any of these people.</p> <p>Upon its winding-up, deregistration or dissolution, the remaining assets of the NPC must be given or transferred to another NPC with similar objects</p>
<p>Section 21 company</p>	<p>This form no longer exists.</p> <p>According to the revised act they were required to amend their documents - by 1 May 2011 - to expressly state that it is a non-profit company, and to have changed its name to end with the abbreviation ‘NPC’</p>

This is a very brief overview of the type of organisations in South Africa. We will in future Reglections discuss some of this in more detail. We will look at the acts involved for the different types of organisations and the implications this has on the tax situation and registrations.

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