Comparative Highlights of Foundation Laws

The European Union of 27

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Foreword

The European foundation sector is going through exciting times at the moment. The European Commission's feasibility study on the European Foundation Statute is about to get under way, and there are infringement procedures in progress against several EU Member States regarding tax discrimination against charitable organisations based in other EU Member States. Several national parliaments are reviewing their respective foundation laws with the aim of establishing a more enabling environment for foundations' and funders' cross-border work. Recent foundation law revisions in Poland, the Netherlands, and Slovenia introduced the tax deductibility of cross-border donations, while Germany has considerably increased its tax incentives for both individual and corporate donations.

These updated European Foundation Centre (EFC) legal and fiscal comparative charts can serve as a benchmark for good legal and fiscal rules for foundations and their funders. They can also provide useful input into future developments in the field of foundation law at both national and EU level.

This publication gives clear evidence of the colourful and diverse foundation landscape in Europe, which is rooted in the different histories and cultures of the continent, but it also highlights some overall trends in foundation law, and it tries to respond to questions such as: What purposes can foundations pursue? Is a minimum capital needed to set up a foundation? Can foundations pursue economic activities? Who governs foundations? What tax incentives are given to donors? This publication provides the reader with an overview of 15 key legal and fiscal issues concerning foundations across the EU in the format of easy-to-read comparative charts.

I would like to thank those who were involved in putting this publication together: EFC members, national associations of donors, and researchers in the field. I would also like to thank the EFC Legal Committee and the EFC secretariat for having monitored the process. My special thanks go to the Fritz Thyssen Stiftung for its generous support of this important overview.

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Contents

Introduction: The colourful world of foundation law

This publication, building on the newly updated legal and fiscal profiles: "Foundations' Legal and Fiscal Environments – Mapping the European Union of 27" (2007), aims to provide the reader with a short comparative overview of the diverse legal and fiscal environments of foundations across the EU of 27. Comparative charts enable an easy comparison of key foundation law elements.

The foundation sector in Europe has experienced a major boom in the last 10 to 15 years. Figures suggest a great growth rate since the 1980s. Between 28% and 40% of all foundations in EU Member States such as Germany, Finland, France and Belgium were created in the last decade. Figures also show the diversity of the foundation landscape, and this publication certainly gives evidence of the colourful variety of the sector, which was further enriched by the enlargement in 2007 of the EU from 15 to 27 Member States.

No common legal definition of the term foundation exists in Europe. Nevertheless, across the EU there is a generally understood and accepted concept of what public benefit foundations are: Independent, separately-constituted non-profit bodies with their own established and reliable source of income, usually but not exclusively, from an endowment, and their own governing board. They distribute their financial resources for educational, cultural, religious, social or other public benefit purposes, either by supporting associations, charities, educational institutions or individuals, or by operating their own programmes (this functional definition was developed by the EFC [1]).

Country by country comparative charts

This publication gives the reader an overview of 15 key foundation legal and fiscal issues across the EU in the format of easy-to-read comparative charts. These charts address a variety of issues, such as the purpose of a foundation, requirements for setting up foundations, permitted activities, and the tax treatment of foundations and donors. All data in the charts are from August 2007.

1. Purpose of a foundation

In approximately half of the EU countries, the foundation laws require that foundations pursue public benefit purposes only. Some foundation laws allow foundations to pursue any lawful purpose, including private purposes. Private purposes include, for example, the advancement of one family, relatives of the founder, trust funds for the education of the founder's children, etc. Finland allows any "useful" purpose for a foundation, and in Sweden foundations can engage in any legal purpose.

2. State approval and/or registration

Most EU countries require foundations to register with an authority or a court. In Sweden only certain foundations need to register. In several Member States, state approval is needed for a foundation to be established. However, only in very few countries do the authorities have discretionary powers not to approve a foundation.

3. Minimum capital

In most countries, no fixed amount of starting capital for foundations is required by law, but the authorities require that a foundation possess a sufficient amount of capital to fulfil its purposes. Starting capital is required by law, for example, in Austria (for private foundations), Czech Republic, Denmark, Finland, Malta, Slovakia and Spain, and the amount ranges from approximately 240 euros for public benefit foundations in Malta to the 70,000 euros required from private foundations in Austria. In France, although not required by law, in practice a starting capital of up to 1 million euros may be required by the authorities. Other countries, such as Bulgaria, Cyprus, Estonia, Ireland, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Slovenia, Sweden, and the UK (charitable companies) do not require a minimum capital.

4. Governing organs of a foundation

In most of the EU countries foundations must have a governing board. A significant number of EU Member States require that the minimum number of board members be three. In Portugal, an uneven number of board members is obligatory. In nearly half of EU countries a supervisory board or an auditor is also required by law. However, in the majority of countries the establishment of additional governing organs is left to the discretion of the founder. In France, foundations can choose between two governance structures, and in Sweden the foundation can be managed either by a governing board or a legal entity, which will act as the governing board of the foundation.

[1] "Working with Foundations in Europe: Why and How", EFC, Brussels 2001

5. Are economic activities permitted?

In this publication, economic activity is understood as "trade or business activity involving the sale of goods and services". It has to be noted that the term "economic activity" is not always clearly defined in the 27 different EU countries. "Related" economic activity, as used in this publication, is activity that is in itself related to and supports the pursuance of the public benefit purpose of the foundation. Foundations can engage in economic activities in most EU countries, although the majority of countries impose some limitations on the nature of activities permitted. For example, Germany and Sweden do not impose special restrictions on economic activities, while Portugal allows unrelated activities as well but requires that the profits be used to further the foundation's purpose. The most common limitations imposed on economic activities are the "relatedness test", i.e. they must facilitate the foundation's purposes and/or the "ancillary test", i.e. they must remain ancillary to the foundation's overall activities. Slovakia and the Czech Republic only allow some very specific economic activities listed in the law. In Malta, foundations may hold commercial property in a passive manner, receive rents, dividends and royalties and make profits from limited trading activities in the context of fundraising. In Denmark, two foundation acts exist side by side providing different legal regimes for commercial and non-commercial foundations.

6. Reporting and accountability requirements

All EU countries require foundations to file annual reports and financial records with the relevant authorities. In several countries, the public may obtain access to this information. The public has access to annual accounts and/or annual reports, for example, in Bulgaria, Czech Republic, Estonia, Finland, France, Greece, Lithuania, Luxembourg, the Netherlands (commercial foundations have to publish annual accounts), Poland, Slovakia, Spain and Sweden (only for business foundations). In most EU countries, only large foundations require an audit.

7. Activities abroad and implications for tax-exempt status

In most EU countries foundations can undertake activities abroad without compromising their tax-exempt status. In Austria, Portugal and Sweden tax-exempt status may be lost if the activities only benefit foreigners. In Germany, authorities require that the activities of the foundation have to benefit the German public in some way. In Latvia, the tax-exempt status of the foundation is not compromised if it undertakes activities abroad, but the tax exemption does not apply to the activities abroad.

8. Tax treatment of foundations: Income from economic activities

All EU Member States provide for special tax treatment for public benefit purpose foundations. However, there is no common approach to defining the public benefit criteria that can lead to tax relief. What can qualify as public benefit in one country might not be considered as such in another. In addition, procedures for obtaining tax privileges vary considerably, e.g. application to the tax authority, decision by the Ministry of Finance, etc.

Concerning the tax treatment of economic activity three categories can be found: Some Member States tax all business income in full whether from related activity or unrelated activity. Most countries tax income from unrelated activity but exempt income from related activity (in some cases it has to be ancillary activity). Some Member States (e.g. Germany, Hungary and the UK) go even further as they also exempt unrelated economic activity. However, all those countries mentioned above only exempt small-scale unrelated economic activity. Some have introduced a ceiling into the law text – this is the case in Germany and Hungary.

9. Tax treatment of foundations: Income from asset administration

Income deriving from asset management is exempt from corporate income tax in most countries.

10. Donations: Income tax, gift and inheritance tax

Donations/grants to public benefit purpose foundations are in general exempt from corporate income tax. They are, in the majority of EU countries, also exempt from gift and inheritance tax. In the following countries, however, they are subject to reduced gift and inheritance tax rates: Belgium (6% or 7% depending on region) and Luxembourg (6%). In Lithuania the donor pays inheritance/gift tax.

11. Majority shareholding and taxation of majority shareholding

The rules concerning major shareholding vary widely across the EU Member States. Most national laws allow major shareholding, but France for instance, requires major shareholding to be in line with the foundation's purpose. The majority of countries that allow major shareholding do not tax income generated by it. France, Germany and the Netherlands tax "influential" shareholding, where the foundation actually runs the management of the company, for example through the use of voting rights.

12. Tax deduction vs. tax credit

A tax credit "reduces the tax", while a deduction reduces the amount of income that is taxed. A tax deduction is normally subtracted from the (gross) income before the income tax is calculated. A "tax credit" normally entitles the taxpayer to subtract the amount of the donation from the total income tax. Most EU countries operate a system of tax deduction for donations to public benefit foundations.

13. and 14. Tax treatment of donors, individual and corporate

Individual and corporate donors are eligible to claim tax relief for charitable donations in most jurisdictions. Only Slovakia has no tax incentives in place for individual or corporate giving, while Finland, Lithuania, Malta and Sweden only provide some tax incentives for corporate donors.

Most tax laws allow tax incentives only up to a certain limit, e.g. a certain percentage of income. However, Cyprus and the UK have no such limits for individual and corporate donors, and Ireland and Portugal set no limits for corporate donors. Most EU countries provide tax incentives for cash donations as well as donations in-kind.

These charts also indicate the deductibility of cash donations for 1,000; 10,000; and 100,000 euros from an individual donor with an annual income of 300,000 euros and a company with an annual turnover of 5,000,000 euros with a profit of 200,000 euros.

15. Tax treatment of cross-border donations and legacies

In the majority of EU countries, donations to non-resident foundations do not qualify for tax relief to the donor. However, overall there seems to be a trend to introduce more tax incentives for donors also in the international context – the Netherlands and Poland have recently amended their tax laws, and they now allow donors to claim tax relief for cross-border donations. In Slovenia, individual donors may also claim tax relief for cross-border donations. Cyprus, Greece, Ireland, Italy and Portugal allow the deduction of cross-border donations in some limited cases.

Cross-border donations are normally not exempt from gift and inheritance tax. Several Member States exempt cross-border donations in case of reciprocity. Belgium, the Netherlands and Slovenia exempt donations that are given to foreign-based public benefit organisations.

The European Commission has ongoing infringement procedures against several Member States. The Commission is of the opinion that these tax regimes discriminate against foreign-based public benefit organisations. It is hoped that these infringement procedures will encourage Member States to introduce a cross-border-friendly environment for foundations and their donors.

Country by country comparative charts

Data are from August 2007

1. Purpose of a foundation

Country	What purposes are foundations legally permitted to pursue?
Austria	Public benefit foundations must pursue public benefit purposes, whereas private foundations (governed by different laws) can pursue private or public benefit purposes
Belgium	Public benefit foundations serve general interests, private foundations may also serve private interests
Bulgaria	Both public and private benefit
Cyprus	Both public and private benefit depending on the type of foundation
Czech Republic	Public benefit only
Denmark	Both public and private benefit
Estonia	Both public and private benefit
Finland	Both public and private benefit, any "useful" purpose
France	Public benefit only
Germany	Both public and private benefit
Greece	Both public and private benefit
Hungary	Public benefit only
Ireland	Public benefit only
Italy	Both public and private benefit, depending on the type of foundation
Latvia	Both public and private benefit (except profit-making)
Lithuania	Public benefit only
Luxembourg	Public benefit only
Malta	Both public and private benefit
Netherlands	Both public and private benefit
Poland	Public benefit only
Portugal	Public benefit only
Romania	Public benefit only
Slovakia	Public benefit only
Slovenia	Public benefit only
Spain	Public benefit only
Sweden	Both public and private benefit
United Kingdom	Public benefit only

2. State approval and/or registration

Country	Is state approval or registration required for the setting up of a foundation?
Austria	Public benefit foundations: State approval (no discretion) and registration is required. Private foundations: State registration is required.
Belgium	Public benefit foundations: State approval and registration is required. Private foundations: Court registration is required.
Bulgaria	Court registration is required
Cyprus	State approval and registration may be required depending on the legal form
Czech Republic	Court registration is required
Denmark	State registration is required
Estonia	State registration is required
Finland	State approval and registration is required
France	State approval and registration is required
Germany	State approval (no discretion) and registration is required
Greece	State approval and registration is required
Hungary	Court registration is required
Ireland	Registration with Revenue Commissioners is required
Italy	State registration is required
Latvia	State registration is required
Lithuania	State registration is required
Luxembourg	State approval and registration is required
Malta	Registration is required, state approval is required if the foundation is to be registered as a voluntary organisation
Netherlands	Registration with the Register of Commerce is required
Poland	Court registration is required
Portugal	State approval and registration is required
Romania	Court registration is required
Slovakia	State registration is required
Slovenia	State approval is required
Spain	State approval and registration is required
Sweden	No, some foundations must register with the supervision authority, but registration is not a prerequisite for establishment
United Kingdom	Charity Commission approval is required and most foundations have to register with the Charity Commission

3. Minimum capital

Country	Is a minimum capital required for the setting up of a foundation?
Austria	No, for public benefit foundations, but assets have to be sufficient to fulfil the purposes of the foundation. Private foundations: Yes, 70,000 euros.
Belgium	No, for public benefit foundations, but 25,000 euros is required by the authorities. Private foundations: No.
Bulgaria	No
Cyprus	No
Czech Republic	Yes, approximately 18,000 euros
Denmark	Yes. Non-commercial foundations: approximately 34,000 euros. Commercial foundations: approximately 40,000 euros.
Estonia	No
Finland	Yes, 25,000 euros and assets have to be sufficient to fulfil the purposes of the foundation
France	No, but in practice minimum of 1 million euros is required by the authorities in order to give their approval and grant public utility status
Germany	No, but assets have to be sufficient to fulfil the purposes of the foundation (a minimum of 50,000 euros is required)
Greece	No, but assets have to be sufficient to fulfil the purposes of the foundation
Hungary	No, but assets have to be sufficient to fulfil the purposes of the foundation. Approximately 400-1,000 euros is required by the authorities.
Ireland	No
Italy	No, but assets have to be sufficient to fulfil the purposes of the foundation. In practice 100,000 euros is requested.
Latvia	No
Lithuania	No
Luxembourg	No
Malta	Yes, approximately 240 euros for social purpose foundations and 1,200 euros for other foundations
Netherlands	No
Poland	No, but if foundation is planning economic activities approximately 265 euros is required
Portugal	No, but in practice a minimum of 250,000 euros is required by the authorities
Romania	Yes, at least 100 times the minimum gross salary in the national economy on the date of creation
Slovakia	Yes, approximately 6,000 euros
Slovenia	No
Spain	Yes, 30,000 euros is normally presumed sufficient
Sweden	No
United Kingdom	No, but a minimum annual income of approximately 7,400 euros is required

4. Governing organs of a foundation

Country	What are the mandatory governing and other organs?
Austria	Public benefit foundation: Governing board Private foundation: Governing board, accountant, supervisory board of trustees
Belgium	Governing board of at least three members, statutory auditor for large organisations
Bulgaria	One governing body, often managing board and general assembly
Cyprus	Charitable trusts: Board of trustees Institutions and Companies limited by guarantee: Managing board
Czech Republic	Governing board of at least three members, a supervisory board or comptroller
Denmark	Governing board of at least three members and an accountant or auditor (revisor) for non-commercial foundations
Estonia	Governing board of at least one member, council of at least three members and an auditor
Finland	Governing board of at least three members
France	Foundations can choose between a supervisory board and an executive board, or a managing board
Germany	Governing board
Greece	Governing board
Hungary	Managing body or organisation, usually a governing board and supervisory body (usually a board of supervision) for large public-benefit foundations
Ireland	Governing board of at least three (majority must reside in Ireland)
Italy	Governing board. Foundations of banking origin: board of governors, an executive committee and an auditing committee.
Latvia	Governing board and auditing institution
Lithuania	Meeting of founders, governing board, inspector or auditor
Luxembourg	Board of directors
Malta	Governing board (administration)
Netherlands	Governing board
Poland	Governing board
Portugal	Governing board with an uneven number of members and a supervisory committee
Romania	Governing board and auditor or auditing committee
Slovakia	Governing body of at least three members, executive director and supervisory board or inspector
Slovenia	Governing board of at least three members
Spain	Governing board of at least three members
Sweden	Two different foundation management options: own management (egen förvaltning) with a governing board and attached management (anknuten förvaltning)
United Kingdom	Board of trustees

5. Are economic activities permitted?

Country	Are economic activities* permitted?
Austria	Yes, if within the objectives of the public benefit foundation. Private foundations must not engage in primarily commercial activities.
Belgium	Yes, even unrelated activities, if they have a non-profit purpose. Profits must be used for the foundation's purpose.
Bulgaria	Yes, if they are purpose-related and ancillary and the profits are used for charitable purposes
Cyprus	Yes, but only if profits are used for purposes outlined in the organisation's governing document
Czech Republic	No, but some exceptions exist (real estate leases and organising lotteries, raffles, public collections, cultural, social, sport and educational events)
Denmark	Yes, even non-commercial foundations may have small-scale economic activities, at a larger scale they are considered commercial foundations
Estonia	Yes, but the foundation may use its income only for purposes specified by its statutes.
Finland	Yes, but only if it is stipulated in foundation statutes/bylaws and this activity is ancillary and purpose-related
France	Yes, provided they support the public benefit purpose of the foundation
Germany	Yes, even unrelated
Greece	Yes, if they are purpose-related
Hungary	Yes, if they are purpose-related
Ireland	Yes, if they are purpose-related or carried out by beneficiaries
Italy	Yes, if ancillary and not in conflict with foundation's objectives. Onlus: only specific institutional activities. Foundations of banking origin: related activities only.
Latvia	Yes, profits have to be used for the foundation's purpose
Lithuania	Yes, profits have to be used for the foundation's purpose
Luxembourg	Yes, but this must not be the primary goal of the foundation
Malta	No, but they may hold commercial property in a passive manner, receive rents, dividends and royalties and make profits from limited trading activities in the context of fundraising
Netherlands	Yes, if they are related to the purpose
Poland	Yes, even unrelated
Portugal	Yes, even unrelated. Profits have to be used for the foundation's purpose.
Romania	Yes, if they are ancillary and purpose-related
Slovakia	No, but some exceptions exist (leasing out real estate and organising cultural, educational, social or sports events)
Slovenia	Yes, but income from them must be limited to less than 30% of all income
Spain	Yes, if they are purpose-related or ancillary. Any other type of economic activity has to be carried out through a shareholding/holding structure.
Sweden	Yes
United Kingdom	Yes, if purpose-related, unrelated activities only at small scale. Otherwise they have to establish a non-profit subsidiary trading company.

*For definition of economic activity, please refer to the introduction (p.4)

6. Reporting and accountability requirements

Country	What are the requirements regarding reporting and accountability? What kind of information is made publicly available?
Austria	Public benefit foundations: Annual accounts filed with foundation authority. Private benefit foundations: Annual accounts reviewed by accountant/Stiftungsprüfer. Annual accounting report to be audited by a certified auditor, appointed by the court which has the right to initiate a special investigation. There is no obligation to make annual accounts or reports publicly available.
Belgium	Small private foundations, small public utility foundations and large public utility foundations: Accounts and annual budgets filed with the commercial court. Large private foundations: accounts filed with the National Bank of Belgium/Banque Nationale de Belgique. Public utility foundations and large private foundations must keep yearly accounts and they must be reviewed by statutory auditors. No obligation to make documents publicly available.
Bulgaria	Annual Activity Report and Accounts submitted to Central Registry at Ministry of Justice, documents are published and open to the public. Large public benefit organisations shall be subject to an independent audit.
Cyprus	Charitable Trust: Financial report is filed with the Administrative Secretary annually. The Council of Ministers may request an audit. Societies: The meeting of members is the reporting body within a society, including taking decisions on appointment of auditors and approval of the balance sheet. Institutions and Companies Limited by Guarantee: Accounts are fully audited and reports are filed with the relevant government departments.
Czech Republic	Annual report including financial information must be filed with the Register Court and supervisory authority upon request and made publicly available. Annual statements have to be verified by an auditor.
Denmark	Non-commercial foundations: Yearly accounts filed with local tax authorities, large foundations need an independent auditor. Reports do not need to be made publicly available. Commercial foundations also keep annual accounts using the same principles that apply to joint-stock companies. Annual accounts are made publicly available.
Estonia	A report of financial activities and an auditor's statement is filed with the Registry of Non-Profit Organisations and Foundations. Reports are made publicly available upon request.
Finland	Accounts and annual reports submitted annually to the registration authority. Annual income tax returns filed with the taxation authorities, who decide on the non-profit status on an annual basis. Reports and accounts are publicly available upon request.
France	Annual report and financial statements filed with the administrative authorities. An auditor and a substitute must be appointed. Foundations receiving annual gifts of at least 153,000 euros or receiving financial support from public authorities have to make their annual reports and financial reports publicly available.
Germany	Foundations must present annual reports to the relevant state authorities or, if they wish to receive tax privileges, to the relevant financial authorities. Reports do not need to be made publicly available.
Greece	Financial records are filed, budget is approved by the Ministry of Finance in advance. Annual reports of revenues and expenses are filed with the Ministry of Finance and published in local daily press.
Hungary	Activity reports need to be filed and made publicly available.
Ireland	Audited accounts must be provided to Revenue Commissioners if annual income exceeds 100,000 euros. Limited companies have to file annual returns with the Companies Registration Office (like all companies), where they can be obtained by any member of the public for a small fee.
Italy	Annual and financial reports must be filed. Onlus and banking foundations have to file them with the Onlus Supervision Authority. Reports do not need to be made publicly available.
Latvia	An annual report must be submitted to the tax administration office and to the State Register. Public benefit foundations also have to submit annual and financial reports to the Ministry of Finance.

6. Reporting and accountability requirements (continued)

Country	What are the requirements regarding reporting and accountability? What kind of information is made publicly available?
Lithuania	Activity and financial reports are filed and accounts are audited. Reports are available to the public.
Luxembourg	Budgets have to be annually filed with the Ministry of Justice. Budgets and accounts are published in the Mémorial.
Malta	Accounts must be kept - new regulations are expected shortly.
Netherlands	Financial records are filed, larger commercial foundations have to publish the records.
Poland	Annual and financial reports filed with relevant ministries and made available to the public.
Portugal	Annual report and accounts must be filed with the government and have to be available for review by the tax authorities. Reports do not need to be made publicly available.
Romania	Annual balance sheet must be submitted to the authorities.
Slovakia	Annual report including financial information must be filed with the authorities and the auditor's report is published in the official Commercial Journal.
Slovenia	Annual report and accounts must be filed with the Body Competent for Foundations, which may demand an audit. Annual report and accounts do not need to be made publicly available.
Spain	Activity reports need to be filed with the relevant authorities, external audit is required for large foundations. The documents have to be made available to the public.
Sweden	Business foundations: Annual report must be filed and made available to the public. Accounts must be audited and sent to the foundation authority. Non-business and smaller foundations: Simple accounts, but must also be audited. Reports do not need to be made publicly available.
United Kingdom	Annual return filed with the Charity Commission, including annual accounts and an annual report, which must also be made available to the public. For larger foundations and foundations with commercial activities, a professional audit is required.

7. Activities abroad and implications for tax-exempt status

Country	Do activities abroad put the tax-exempt status of public benefit foundations at risk?
Austria	Yes, but only if foundations are operating mainly abroad
Belgium	No
Bulgaria	No
Cyprus	No
Czech Republic	No
Denmark	No
Estonia	No
Finland	No, if the purpose of these activities is in the public interest and such activities are of a non-profit nature
France	No, if the purpose of these activities is in the public interest and such activities are of a non-profit nature
Germany	No, but they need to have a positive impact for Germany
Greece	No
Hungary	No
Ireland	No
Italy	No
Latvia	No, but tax exemption is not applicable to activities abroad
Lithuania	No
Luxembourg	No
Malta	No
Netherlands	No, if the activities are charitable
Poland	No
Portugal	Yes, if the activities only benefit foreigners
Romania	No
Slovakia	No
Slovenia	No
Spain	No
Sweden	Yes, a foundation pursuing activities wholly outside Sweden might lose/not obtain special tax status
United Kingdom	No, if they are within objectives of the foundation

8. Tax treatment of foundations: Income from economic activities

Country	Is income from economic activities* taxed?
Austria	Yes
Belgium	No, as long as they remain ancillary
Bulgaria	Yes
Cyprus	No, if related to the purpose
Czech Republic	No, but only up to to 300,000 CZK (approximately 10,000 euros) and economic activities are only allowed in a few cases
Denmark	Yes
Estonia	No, unless it is being distributed outside the foundation
Finland	No, but unrelated economic activities are taxed
France	No, but unrelated economic activities are taxed
Germany	No, but unrelated economic activities are taxed if they exceed 35,000 euros
Greece	No, but net real property rental income and net income from securities is taxed
Hungary	No, but only up to 10 million HUF (approximately 41,000 euros). For priority public benefit foundations, the threshold is 20 million HUF (approximately 82,000 euros).
Ireland	No, as long as they support charitable purposes
Italy	Yes, except for some tax exemptions received by Onlus foundations
Latvia	No
Lithuania	No, but only up to an annual profit of 300,000 euros
Luxembourg	Yes
Malta	Yes
Netherlands	Yes
Poland	Yes
Portugal	No, but unrelated economic activities are taxed
Romania	Yes, if it exceeds 15,000 euros
Slovakia	Yes, but only limited activities in line with the purpose are allowed and exempt
Slovenia	Yes
Spain	No, if they support foundation's purpose and are ancillary and complementary in nature
Sweden	Yes
United Kingdom	No, if income for related economic activity and ancillary economic activity

*For definition of economic activity, please refer to the introduction (p.4)

9. Tax treatment of foundations: Income from asset administration

Country	Are public benefit foundations taxed on income from asset administration/investments?
Austria	No
Belgium	Yes
Bulgaria	No, interest earned on bank deposits is exempt, but dividends are taxed at 7% and capital gains at 10%
Cyprus	No, depending on certain conditions
Czech Republic	No
Denmark	Yes, but dividends from companies in which foundations hold at least 15% of shares are exempt
Estonia	No, unless income is not used for the foundation's purpose
Finland	No, but there are some exceptions (i.e. private equity funds)
France	No
Germany	No
Greece	No, but income from securities is taxed
Hungary	No
Ireland	No
Italy	Yes
Latvia	No
Lithuania	Yes, but only if overall annual profit exceeds approximately 300,000 euros
Luxembourg	No, if it does not derive from commercial activities and is used for the foundation's purpose
Malta	Yes
Netherlands	No
Poland	No, if it is used for the foundation's purposes
Portugal	No, but income from bearer securities is taxed
Romania	No, only if it exceeds 15,000 euros
Slovakia	No, except sale of investments
Slovenia	No
Spain	No
Sweden	Yes, but pension foundations and others which meet specific criteria are exempt
United Kingdom	No

10. Donations: Income tax, gift and inheritance tax

Country	Do public benefit foundations pay income tax on grants and donations?	Are grants/donations to public benefit foundations subject to gift and inheritance tax?
Austria	No	Yes, some pay 2.5% and some private foundations pay 5%
Belgium	No	Yes, but reduced rates. Inheritance tax: reduced to 6.6%, 7% or 8.8% depending on region. Gift tax: Reduced to 6% or 7% depending on region.
Bulgaria	No	No
Cyprus	No	Gift and inheritance tax has been abolished
Czech Republic	No	No
Denmark	Yes, but deductions are possible	No, if included on a Ministry of Taxation list of public benefit foundations
Estonia	No	Gift and inheritance tax has been abolished
Finland	No	No
France	No	No
Germany	No	No
Greece	No	No
Hungary	No	No
Ireland	No	No
Italy	No	Gift and inheritance tax has been abolished
Latvia	No	No
Lithuania	No	Yes, but for the donor only
Luxembourg	No	Yes, but at the reduced rate of 6%
Malta	No	Gift and inheritance tax as such, has been abolished. However, there is a 5% duty on the transfer of documents related to immovables and shares.
Netherlands	No	No
Poland	No	No
Portugal	No	No
Romania	No	No
Slovakia	No	Gift and inheritance tax has been abolished
Slovenia	No	No
Spain	No	No
Sweden	No	Gift and inheritance tax has been abolished
United Kingdom	No	No

11. Majority shareholding and taxation of majority shareholding

Country	Is majority shareholding by public benefit foundations in companies permitted?	Is majority shareholding by public benefit foundations in companies taxed?
Austria	No, for public foundation; yes, for private foundations if they are not extensively involved in the management of the company	No, if the foundation invests its assets in resident company shares or participation, the dividends are not taxed
Belgium	Yes	Dividends are taxed with the tax on legal entities
Bulgaria	Yes	Yes
Cyprus	Yes	No
Czech Republic	No	N/A
Denmark	Yes, but then they are governed under a separate act as a commercial foundation	No, dividends from Danish companies in which the foundation holds at least 15% of the shares are exempt. If the foundation holds a substantial majority of shares, the income of the company for tax purposes is treated as income of the foundation.
Estonia	Yes	No
Finland	Yes	No, major shareholding is not considered to be economic activity and is tax-exempt
France	Yes, if it is in line with foundation's purpose	No, but "influential" shareholding is
Germany	Yes	No, but "influential" shareholding is
Greece	Yes	No
Hungary	Yes	No
Ireland	Yes	No, as long as it is in support of charitable purposes
Italy	Yes, but for foundations of banking origin, only for instrumental enterprises. Onlus: only in companies active in certain fields.	Yes
Latvia	Yes	No
Lithuania	No, foundations' assets must be maintained in credit institutions	N/A
Luxembourg	Yes, if related to the main objectives of the foundation	Yes, if qualifying as commercial/industrial activity
Malta	Yes	Yes
Netherlands	Yes	No, but "influential" shareholding is
Poland	Yes	No
Portugal	Yes	No
Romania	Yes	Yes
Slovakia	Yes	Yes
Slovenia	No	N/A
Spain	Yes	No
Sweden	Yes	Yes
United Kingdom	Yes	No

12. Tax deduction vs. tax credit

Country	System of tax deduction or tax credit?
Austria	Tax deduction
Belgium	Tax deduction
Bulgaria	Tax deduction
Cyprus	Tax credit
Czech Republic	Tax deduction
Denmark	Tax deduction
Estonia	Tax deduction
Finland	Tax deduction for corporate donors only
France	Tax credit
Germany	Tax deduction
Greece	Tax deduction
Hungary	Tax credit for individuals and tax deduction for corporate donors
Ireland	If a donor is 'taxed at source', the charity claims the tax back. If a donor is self-assessed for tax, the donor claims the tax back.
Italy	Tax credit or tax deduction
Latvia	Tax deduction for individuals and tax credit for corporate donors
Lithuania	Tax deduction only for legal persons
Luxembourg	Tax deduction
Malta	Tax deduction for corporate donors only
Netherlands	Tax deduction
Poland	Tax deduction
Portugal	Tax credit for individuals and tax deduction for corporate donors
Romania	Tax deduction
Slovakia	None
Slovenia	Tax deduction
Spain	Tax credit
Sweden	None
United Kingdom	Tax deduction

*For definitions of tax credit and deduction, please refer to the introduction (p. 5)

13. Tax treatment of individual donors

Country	Limit of incentive?	Amount deductible on 1,000 euros*	Amount deductible on 10,000 euros*	Amount deductible on 100,000 euros*
Austria	Donations to certain organisations can be deducted up to 10% of taxable income	1,000	10,000	30,000
Belgium	Only cash donations, exception is works of art to museums. Up to 10% of taxable income, with a maximum of 319,580 euros. (year 2005)	1,000	10,000	30,000
Bulgaria	Cash, real estate and in-kind donations. Deduction varies between 5% and 50% of the income depending on the type of beneficiary. The total amount of the deduction cannot exceed 65% of the total income.	50 - 500	500 - 5,000	5,000 - 50,000
Cyprus	There is no limit and the whole amount of the donation can be deducted	1,000	10,000	100,000
Czech Republic	The donation can be a movable asset or real estate. Deductible up to 10% of taxable income, if at least 2% of income is donated, but not less than 1,000 CZK (approximately 35 euros).	1,000	10,000	30,000
Denmark	Cash and in-kind donations exceeding 500 DKK (approximately 70 euros) up to 6,800 DKK (approximately 800 euros) are deductible each year	800	800	800
Estonia	Total of donations deducted from taxable income cannot exceed 5% of the donor's total income	1,000	10,000	15,000
Finland	No tax incentives for individual donors	0	0	0
France	Tax reduction equal to 66% of the value of their gift (75% in some cases), up to 20% of the donor's taxable income. Gifts exceeding this threshold are carried forward over the next 5 years.	660 - 750	6,600 - 7,500	60,000
Germany	In September 2007, the German Bundesrat approved the following tax incentives: Tax deduction up to 20% of the yearly taxable income. Individual donors can deduct the maximum amount of 1 million euros over a period of 10 years (the amount can be carried forward for a period of up to 10 years).	1,000	10,000	100,000
Greece	Cash donations only, exception is medical equipment to hospitals. Only donations above 100 euros are deducted. Limit in the field of culture: 10% of income.	1,000	10,000	100,000
Hungary	Cash donations only. Tax amount can be reduced by 30% of the donation, maximum 100,000 HUF (approximately 400 euros) or 50,000 HUF (approximately 200 euros) depending on the type of public benefit organisation. If both types are supported, maximum amount is 150,000 HUF (approximately 600 euros).	300	600	600

* All amounts in euros. Calculation is made on the basis of salary of 300,000.

13. Tax treatment of individual donors (continued)

Country	Limit of incentive?	Amount deductible on 1,000 euros*	Amount deductible on 10,000 euros*	Amount deductible on 100,000 euros*
Ireland	Cash and publicly-quoted shares can be donated. Minimum of 250 euros. The total tax relief claimed may not be over 50% of gross income.	1,000	10,000	100,000
Italy	Cash donations only. Tax credit for 19% of the donation to Onlus with a limit of up to 2% of the income. No limits for donations to universities.	190	1,900	18,000
Latvia	Individual donors can receive an income tax deduction of 25% of donated amounts, but not exceeding 20% of taxable income	250	2,500	25,000
Lithuania	No tax incentives for individual donors	0	0	0
Luxembourg	Donations are deductible up to 10% of the taxable net annual income of the donor or 500,000 euros, provided the donations have an aggregate value in excess of 120 euros	1,000	10,000	30,000
Malta	No tax incentives in place for individual donors	0	0	0
Netherlands	The donation is deductible for donations from 1% (or over 60 euros) of taxable income up to 10% of taxable income	1,000	10,000	30,000
Poland	Donations of cash, shares, securities, real-estate and in-kind-donations are allowed. Limit of incentive: 6% of the tax base	1,000	10,000	18,000
Portugal	25% of the amount donated can be subtracted from income tax when there is no limit on deduction for corporate donors. 25% of the amount donated can also be subtracted, as long as the amount does not exceed 15% of their total income tax in the respective year, when there is a limit on deduction for corporate donors.	250	2,500	25,000
Romania	Donation can be deducted up to 2% of total income	1,000	6,000	6,000
Slovakia	No tax incentives in place for individual or corporate giving	0	0	0
Slovenia	The total amount of cash and in-kind donations to foundations can be deducted, which accounts for 0.3% of liable person's taxed income in a tax year	900	900	900
Spain	Tax credit of 25% of the value of the donation up to a limit of 10% of the total taxable income of the donor. Donations can include cash or movable and immovable property.	250	2,500	25,000
Sweden	No tax incentives in place for individual donors	0	0	0
United Kingdom	Cash donations. Total donations are deductible via Gift aid and payroll giving schemes.	1,000	10,000	100,000

* All amounts in euros. Calculation is made on the basis of salary of 300,000.

14. Tax treatment of corporate donors

Country	Type of donation? Limit of incentive?	Amount deductible on 1,000 euros*	Amount deductible on 10,000 euros*	Amount deductible on 100,000 euros*
Austria	Deductions up to 10% of business profits	1,000	10,000	20,000
Belgium	Only cash donations, exception is works of art donated to museums. Up to 5% of taxable income, with a maximum of 500,000 euros. (year 2005)	1,000	10,000	10,000
Bulgaria	Donations up to 10%, 15% or 50% (dependent on the recipient) from the positive financial result. The total amount of the deduction cannot exceed 65% of the total income.	100 - 500	1,000 - 5,000	10,000 - 50,000
Cyprus	Whole amount of the donation can be deducted, subject to certain conditions	1,000	10,000	100,000
Czech Republic	The donation can be a movable asset or real estate. The donation is deductible up to 5% of taxable income, in some cases up to 10%, provided at least 2,000 CZK (approximately 70 euros) is donated.	1,000	10,000	10,000 - 20,000
Denmark	Gifts exceeding 500 DKK (approximately 70 euros) up to 6,800 DKK (approximately 800 euros) are deductible each year	800	800	800
Estonia	Total of donations deducted from taxable income may not exceed either 3% of the sum of the payments made during the year and subject to social insurance tax, nor 10% of the calculated profit of the latest fiscal year	1,000	10,000	20,000
Finland	Cash donations exceeding 840 euros are deductible, up to a maximum of 25,000 euros	1,000	10,000	25,000
France	Tax reduction equal to 60% of donations to public utility foundations up to 0.5% of their annual turnover	600	6,000	25,000* **if the annual turnover of the corporate donor exceeds 5 million euros*
Germany	In September 2007, the German Bundesrat approved the following tax incentive: A tax deduction up to 20% of yearly taxable income (or 0.4% of the sum of the turnover and salaries)	1,000	10,000	40,000
Greece	Cash donations are deductible up to a maximum of 10% of the taxable income	1,000	10,000	20,000
Hungary	The tax base of the company can be reduced by 100% or 150% of the donation (depending on the type of organisation) up to 20% of the tax base	1,000	10,000	40,000
Ireland	Donations over 250 euros are deductible in full	1,000	10,000	100,000
Italy	Tax deduction up to 2% of income, no limit for donations to universities	1,500	15,000	40,000
Latvia	A tax credit of 85% of donated sums, up to 20% of total payable tax	850	8,500	85,000
Lithuania	Deductions up to 40% of business profits, cash donations limit of incentive is approx. 9,500 euros	1,000	9,500	9,500

* All amounts in euros. Calculation is made on the basis of 5,000,000 euros turnover and 200,000 euros profits.

14. Tax treatment of corporate donors (continued)

Country	Type of donation? Limit of incentive?	Amount deductible on 1,000 euros*	Amount deductible on 10,000 euros*	Amount deductible on 100,000 euros*
Luxembourg	Donations are deductible up to 10% of the taxable net annual income of the donor or 500,000 euros, provided the donations have an aggregate value in excess of 120 euros	1,000	10,000	20,000
Malta	Cash donations only. Limit of incentive: 2,400 euros.	1,000	2,400	2,400
Netherlands	Donations of 227 euros or over can be deducted, with a maximum of 10% of the annual income	1,000	10,000	20,000
Poland	Cash, shares, real estate and in-kind donations are deductible. Limit of incentive: 10% of the tax base.	1,000	10,000	20,000
Portugal	No limits on tax deduction when donations benefit state-supported foundations or represent endowment of private origin foundations pursuing social or cultural aims. Donations are regarded as cost for donor, the value ranges from 120%-150%.	1,200	12,000	120,000
Romania	Donation can be deducted up to 0.3% of the turnover, but no more than 20% of the profit tax	1,000	10,000	15,000
Slovakia	No tax incentives in place for individual or corporate giving	0	0	0
Slovenia	Up to 20% of donations in the area of research. Up to 0.3% of taxable entity's taxed income in a tax year, but may not exceed the tax base in a given tax period.	600	600	600
Spain	Corporations can deduct 35% of all donations up to 10% of the taxable base or 0.1% of the company's turnover in the form of a tax credit. More incentives in the area of cultural heritage.	350	3,500	20,000
Sweden	No deductions in general. Some donations can be deducted as business expenditures.	0	0	0
United Kingdom	Money, qualifying shares and securities and interests in UK real estate. A deduction from taxable profits for donations of money to UK charities can be claimed.	1,000	10,000	100,000

* All amounts in euros. Calculation is made on the basis of 5,000,000 euros turnover and 200,000 euros profits.

15. Tax treatment of cross-border donations and legacies

Country	Are donations to foreign-based public benefit organisations income tax deductible for the donor?	Gift and inheritance tax exemption for donations to non-resident organisations?
Austria	No	Yes, if beneficiary of lifetime donations corresponds to Austrian exemptions or reciprocity exists. No exemption for legacies.
Belgium	No	Yes, if donation is given to a comparable foundation in another EU country
Bulgaria	No	No
Cyprus	No, but some exceptions	N/A. No such tax.
Czech Republic	No	No, in this case donor is tax liable, but exemptions exist for lifetime donations to humanitarian and charitable NGOs (local tax authorities decide)
Denmark	No	No
Estonia	No	N/A. No such tax.
Finland	No	No, the beneficiary is tax liable
France	No, only if a foreign-based organisation would be recognised as being of public benefit in France	Yes, in case of reciprocity, and some double tax treaties address the exemption
Germany	No	Yes, but only in cases of reciprocity agreements, double tax treaties with France and Sweden
Greece	No, but some specific exceptions	Yes, as far as reciprocity exists, double tax treaties with some countries
Hungary	No	No, the beneficiary is liable
Ireland	No, but some exceptions in the field of education	Yes, but the gift and inheritance tax treatment depends on laws of the country where the recipient foundation is based
Italy	No, but some exceptions	N/A. No such tax.
Latvia	No	No
Lithuania	No	No
Luxembourg	No	No, only informal gifts are exempt but if donor dies within one year, inheritance tax is due
Malta	No	N/A. No such tax.
Netherlands	Yes, as long as the recipient is recognised as charitable (implementing rules still to be approved)	Yes, for foreign qualifying organisations (not yet in force)
Poland	Yes	Yes. Gift and inheritance tax only applies to individuals. Gifts to charities, including those that are donated by will are regulated by income tax only, therefore legacies bestowed on foreign charities are tax exempt.
Portugal	No, but exceptions possible	No, beneficiary is liable for tax (stamp duty), some exemptions are foreseen
Romania	No	No
Slovakia	N/A. No tax incentives at all.	N/A. No such tax.
Slovenia	Yes	Yes, if given to a charity organisation that is registered in a EU member state to conduct charitable activity

15. Tax treatment of cross-border donations and legacies (continued)

Country	Are donations to foreign-based public benefit organisations income tax deductible for the donor?	Gift and inheritance tax exemption for donations to non-resident organisations?
Spain	No	N/A. Gift and inheritance tax only applies to individuals.
Sweden	N/A. No tax incentives at all for individuals.	N/A. No such tax.
United Kingdom	No	Lifetime gifts to foreign charities and foundations are considered as PET's (Potentially Exempt Transfers). This means that only if the donor dies within the seven years following the gift, inheritance tax will have to be paid.

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List current as at June 1st 2007

About the European Foundation Centre

The European Foundation Centre is an international association of foundations and corporate funders dedicated to creating an enabling legal and fiscal environment for foundations, documenting the foundation landscape, strengthening the infrastructure of the sector, and promoting collaboration, both among foundations and between foundations and other actors, to advance the public good in Europe and beyond.

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