

EFC COUNTRY PROFILE JANUARY 2011: CYPRUS

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I. Legal framework for foundations

- **Does the jurisdiction have a basic legal definition of a foundation (Description where applicable)? What different legal types of foundation exist (autonomous, non-autonomous without legal personality, civil law, public law, church law, corporate foundations, enterprise foundations)?**

Under Cypriot law there is no specific legislation for foundations and thus no legal definition is provided. However, there exist various kinds of foundations under different laws which have been enacted through the years.

Charitable Trusts: These are governed by the Charities Law, Chapter 41. There is no satisfactory legal definition of what is meant by “charity” and thus reference is made to case law in interpreting the term.

Societies and Associations: These are governed by the Societies and Associations Law 57/72. The Council of Ministers appoints a Registrar regulating the registration of Societies and Associations (hereinafter referred to as the “Registrar”).

A Society is defined in the 1972 Law as an organised association of at least twenty people for non-profitable purposes.

An Association as defined in the 1972 Law as an aggregate of property which is appropriated for serving a specific purpose.

Companies Limited by Guarantee: These are governed by the Companies Law, Chapter 113. In the majority of cases these Companies are incorporated as non-profit-making organisations under section 20 of Chapter 113. The liability of each member is limited to the amount agreed in the Memorandum of Association to be contributed in the event the Company goes into liquidation.

- **What purposes can foundations pursue?**

Charitable Trusts: These comprise trusts set up for public benefit purposes such as relief of poverty, advancement of religion, education, literature, science and any other purposes that are considered to be beneficial to the community.

Societies: Societies can pursue both public and private benefit purposes as specified in their respective Articles of Association. These purposes can be amended at any time by amending the Articles of Association following the procedure prescribed in the Law.

Associations: Like Societies, Associations can pursue both public and private purposes as per the will of the founder and these purposes shall be specified in the Act of Incorporation.

Companies Limited by Guarantee: Such companies can pursue both public and private purposes. However, they are not commonly used for business purposes.

➤ **What are the requirements for the setting up of a foundation (procedure, registration, approval)? What application documents are required? Are there any other specific criteria for registration?**

The requirements vary depending on the type of the foundation to be set up:

Charitable Trusts: The trustee of any charitable institution submits an application to the Council of Ministers for the registration of the institution as a legal entity. The Council of Ministers will issue a certificate of registration if it considers it to be appropriate and subject to such terms and conditions as the Council of Minister may impose (Article 2 of Chapter 41). Charitable trusts can also be set up under the International Trusts Law of 1992, provided one of the main purposes of the trust is the relief of poverty, the advancement of education, or the advancement of religion or any other purposes beneficial to the public as a whole and need not be registered under the provisions of any legislation.

Societies: A Society has to have a minimum of twenty members and a specific non-profit purpose. It must be registered with the Registrar (in charge of these matters) by submitting its Articles of Association signed by all members, the names and addresses of its board members, its logo, and a description of its immovable and movable property. Upon the issuance of the registration certificate by the Registrar, the Society becomes a legal entity.

Associations: An Association must be registered by an act of incorporation with the Registrar in the Register of Associations. The Act of Incorporation includes the name and objectives of the Association, as well as its seat, the property appropriated, and the names and addresses of the members of its management. These items usually reflect the founder's wishes.

Companies Limited by Guarantee: They are set up in the same manner as any other companies as provided under the Cyprus Company Law, Chapter 113. A Company Limited by Guarantee must file its Articles and Memorandum of Association, together with details of its members, directors, secretary and registered address with the Company Registrar. The minimum number of members is seven.

➤ **Is State approval required? (approval by a State Supervisory Authority with/without discretion? Registration with a state authority or court? Notarisation by a Notary public?)**

Charitable Trusts: The approval of the Council of Ministers is required pursuant to section 2 of Chapter 41.

Societies and Associations: The approval of the Registrar is required.

Companies Limited by Guarantee: They need to be registered and approved by the Company Registrar. The Registrar may also give permission to omit the word "limited" at the end of the company's name, if he is satisfied that the company is established for public benefit and uses its profit for the promotion of its objectives and prohibits payment of dividends to its members.

➤ **Do foundations have to register? If yes, in what register?**

Foundations must be registered with the Council of Ministers.

If foundations are registered, what information is kept in the register?

The information that is kept at the register consists of :

- The objectives of the foundation and the regulations for its operation, together with any agreement or will or any other document by which the foundation was established
- Description of the property of the foundation
- The names with full details of the trustees of the foundation
- The name of the foundation
- The stamp

If foundations are registered, is the register publicly available?

The register of foundations is not publicly available.

➤ **Is a minimum capital required?**

There is no minimum capital requirement.

➤ **What governance requirements are set out in the law?**

Charitable Trusts

Before the Council of Ministers can grant a certificate of registration to a Charitable Trust, the trustees must have been effectively appointed under the terms of any agreement, will or any other document that establishes the Charitable Trust to the satisfaction of the Council of Ministers (section 5(1) of Chapter 41).

Every five years the trustees must submit a report to the Administrative Secretary with the names and addresses of the trustees.

The trustees are personally responsible for the property of the charity that comes into their hands and are accountable for their own acts, as well as for the proper administration of the charity and its property.

Societies

The Articles of Association of a Society specify the conditions for admitting or expelling a member, the members' rights and duties, the organs of management, the manner of their establishment and functioning, the dismissal of the organs, and the manner of auditing the Society's accounts.

Societies are managed by persons elected by members.

The meeting of members constitutes the supreme organ of the Society and unless the Articles of Association provide otherwise the meeting itself can:

- Elect the members of the management
- Nominate the auditors of the accounts
- Decide on the admission or expulsion of a member
- Decide on the approval of the balance sheet

- Decide on the alteration of the Society's objectives, the amendment of the Articles of Association and the dissolution of the Society

Associations

Associations are managed by one or more persons and any decisions are taken on a majority basis. The person in charge of the management shall attend to the affairs of the Association and shall represent it both in and out of court. The extent of their authority is specified in the Articles and any limitation is also valid as against third parties.

The members of the management must keep accounting books which show all the transactions of the Association which must be audited by a certified auditor and which must be submitted to the Registrar. The Cyprus courts have the right at any time to check the accounts of an Association.

Companies Limited by Guarantee

Such a company is managed by its board of directors and the provisions of Chapter 113 apply (unless a particular section of its Articles of Association provide otherwise).

Is it mandatory to have a supervisory board?

There is no such requirement.

What are the requirements concerning board members? Is a minimum/maximum number of board members specified? What are the rules concerning appointment of board members? And their resignation/removal?

Companies Limited by Guarantee: The minimum number of directors specified in the law is 2. Depending on the Articles of Association a director may be appointed either by the shareholders (ordinary resolution) or by the board of directors. As regards the removal of any Director, the Company may remove a director by an ordinary resolution irrespective of any provisions contained in the Articles of the Company

Societies/Associations and Charitable Trusts: There is no minimum requirement contained in the relevant legislation. Therefore, the appointment/removal of board members/trustees will be regulated by the Articles of Association or the trust instrument.

What are the duties and what are the rights of board members, as specified by national legislation?

Charitable Trusts: The trustees have fiduciary duties and are liable for any omissions or negligence and are also liable for any property that is under their control (6).

Societies/ Associations: They have fiduciary duties and their rights and obligations are specified in the Articles of Association.

Companies Limited by Guarantee: The directors are entrusted with the management of the company. The Companies Law imposes certain obligations on the directors requiring them to act and carry out certain functions, and places restrictions on certain other acts. The Companies Law does not set out in detail the powers and duties of the directors, which are left to the Articles of Association and case law. The duties of the directors can be broken down to (a) the duty to act in good faith and in the interests of the Company and to use their powers for the purposes which they were conferred; (b) the duty of skill and care; and (c) statutory duties (e.g. maintaining various registers, convening general meetings etc).

What are the rights of founders? Can fundamental decisions, such as change of purpose, be made at the discretion of the founder? What are the legal requirements in such circumstances?

The relevant legislations do not provide for any particular rights of the founders. The settlor of the trust has the right to change the trustees.

What are the rights of beneficiaries (e.g. right of information)?

Charitable Trusts/ Societies/ Associations and Companies Limited by Guarantee: These are not specified in the Law. In case of Companies Limited by Guarantee, the members participate in Annual General Meetings where they can ask questions in relation to the Company.

What rules are in place to ensure against conflict of interest? What is the legal definition of a conflict of interest under your legislation? How is self-dealing prohibited?

Company limited by Guarantee: The director is under the obligation not to put himself in a conflict with his duties towards the company.

Societies/ Associations/ Charitable Trusts: There is no definition in the relevant legislation. As they have fiduciary duties they have an obligation not to put themselves in a conflict of interest situation. Self-dealing is also prohibited unless permitted by the trust instrument.

Can staff (director and/or officers) participate in decision making? How and to what extent?

Company limited by Guarantee: The directors are entrusted with the day-to-day running of the company and participate in decision making in accordance with the Memorandum and Articles of Association.

Societies/ Associations/ Charitable Trusts: The board members and trustees are entrusted with the management and participate in decision making.

➤ **Who can represent a foundation towards third parties? Is this specified in law or is it up to the statutes of the organisation?**

Foundations are represented towards third parties by their trustees.

Do the director and officers have powers of representation?

Yes

➤ **Liability of the foundation and its organs**

Charitable Trust: The trustees are responsible for all the property of the trust that comes into their hands and are answerable and accountable for their own acts and for the proper administration of the charity and its property.

Societies: A Society shall be liable for any legal transactions carried out by any member of the management of the Society, acting within his/her limit. Furthermore, the Society is liable

for the acts or omissions of the members that are representing it where these have occurred in the course of carrying out their duties. The member at fault is also personally liable.

Associations: An Association shall be liable for any legal transactions that have been carried out by the organ managing the Association within the limits of the organ's powers. The Association shall also be liable for any acts or omissions of the organ representing it where these have taken place during the carrying out of these duties entrusted to it. The person at fault shall also be liable in full.

Companies Limited by Guarantee: A company limited by guarantee is a limited liability company. Each member undertakes to contribute to the assets of the Company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the Company contracted before he ceases to be a member but not exceeding a specified amount (section 4(3) of Chapter 113). The board of directors has certain powers and obligations imposed by the Companies Law and detailed in the Articles of Association of the company.

What is the general standard of diligence for board members? Does your country differentiate between voluntary (unpaid) and paid board members?

There is no difference in the liability between unpaid and paid board members, and the members are obliged to serve the foundation and to protect its interests.

Is there a "business judgment rule", giving a board member a "safe harbour", if she/he (1) acts on an informed basis; (2) acts in good faith, (3) acts in the best interests of the corporation, (4) does not act out of self-interest (duty of loyalty concept plays a role here), and (5) is not wasteful?

No

What is the liability the directors and officers?

Directors/officers are liable for any act or omission which is in contradiction with the powers and purposes of the company/society/institution/trust and for breach of any provisions of the relevant legislation.

Can the founder modify the standard of diligence for board members in the foundation's statutes?

No

Can board members be held **civilly** and/or **criminally** liable in the following cases?

	Yes	Probably yes	Unclear	Probably no	No
The foundation distributes money for a purpose which is a public benefit purpose but not accepted in the foundation's statutes.					
The foundation loses its status of a tax benefit foundation (because one requirement in tax law was not fulfilled).					
The foundation loses money because a board member has acquired some					

stocks in a company which unexpectedly went bankrupt.					
The foundation sells immovable property to the spouse of a board member. The board member was unaware that the price was too low.					
The foundation sells immovable property to a third person. The board member was unaware that the price was too low.					

These will be decided on a case law basis taking into account the circumstances of the case.

➤ **Are economic activities allowed (related/unrelated)?**

There are no restrictions in the law but the common law principle is that the property must be used:

- In the case of a Charitable Trust, for the purposes of the Foundation (whether specific or not) or for the purposes for which it was set up
- In the case of a Society, for the objectives provided under its statutes which have to be of a non-profit nature.
- In the case of an Association, for the purpose for which its founder set it up
- In the case of a Company Limited by Guarantee, for the activities stipulated in its Memorandum of Association

➤ **Are there any rules/limitations regarding foundations' asset management?**

The same response applies as in previous question.

➤ **Are foundations legally allowed to allocate grant funds towards furthering their public benefit purpose/programmes which (can) also generate income? (recoverable grants; low interest loans; equities)**

The same response applies as in previous question.

➤ **What are the requirements for an amendment of statutes/amendment of foundations purpose?**

Charitable Trusts: Since they are set up for a specific purpose, that purpose cannot be amended and there is no provision in the law regarding this. In the unlikely event that such an issue may arise, it must be referred to the Supreme Court which has the power and the jurisdiction to "give all such directions and make all such orders as may appear to it necessary or expedient for the administration of any trust created for a charitable purpose".

Societies: The Articles of Association of a Society shall provide the conditions for amending the Articles, including its objectives. The consent of 75% of the members of the society is required. To be valid, every such amendment must be filed within 21 days in the Register.

Associations: In general, the purpose for which an Association has been founded cannot be amended. This can only occur exceptionally by court order if it can be shown that the will of the founder has become unattainable and another incidental purpose may be given to the Association according to the most probable will of the founder.

Companies Limited by Guarantee: This is achieved by amending the Company's Memorandum of Association by a special resolution approved by the court.

➤ **What are requirements with regard to reporting, accountability, auditing?**

Charitable Trusts: The trustees of a Charitable Trust may keep books where they shall enter all the accounts of the Trust, including all monies received and paid, and furthermore at the end of every year they must prepare and submit to the Administrative Secretary the following accounts which must be certified by one of the trustees:

- An account of the gross income arising or which ought to have arisen for the benefit of the charity during the year ending on 31 December
- An account of all balances on hand at the beginning of every year, and all moneys received during the same year, on the account of the charity
- An account for the same period of all payments
- An account of all monies owed to or by the charity as far as is conveniently possible (section 10 of Chapter 41)

The Council of Ministers may at any time request the accounts of the Charitable Trust to be audited by the Director of Audit or other such person as the Council may deem fit to appoint (section 11 of Chapter 41).

Societies: Unless the Articles of Association provide otherwise, the meeting of members is the reporting body within a society, including taking decisions on appointment of auditors and approval of the balance sheet.

Associations: The reporting body within an Association are the members of its management who are also obliged to keep accurate and complete accounts. The accounts of the Association must be audited by a certified auditor whose report is filed with the Registrar. The Court has the discretion at any time to order the audit of the accounts of an Association and such an audit is carried out by the Auditor-General of the Republic and any such other person authorised by the Court.

Companies Limited by Guarantee: A Company must file its annual audited accounts and its annual returns with the Company Registrar and its annual audited accounts also with the Income Tax Department. The Accounts must meet the International Financial Reporting Standards.

Reporting requirements: Do annual reports and/or accounts of foundations need to be made publicly available?

No annual reports / accounts of foundations need to be made publicly available.

What type(s) of report must be submitted (annual report including details of finances and activities, public benefit report, tax report/tax return, other reports e.g. on 1% schemes)?

Charitable trusts: At the end of each financial year, the following accounts and reports must be prepared: Gross Income report, amounts brought forward at the beginning of the financial year, expenses account, accrued and receivables account.

Associations: At the end of each financial year, the accounts and the following reports must be prepared and be submitted to the Commissioner of Associations within 1 month from the day of completion: Gross Income report, amounts brought forward at the beginning of the financial year, expenses account, accrued and receivables account (35). The accounts must be audited.

Companies Limited by Guarantee: At the end of each financial year, accounts and annual returns of the Company must be prepared.

Who checks (supervisory/tax authorities)?

The Minister of Interior, the Registrar of Companies and the Commissioner of Inland Revenue.

Where is the required information publicised?

n/a

What are the legal requirements concerning external audit? Is external audit required by law for all foundations?

The International Financial Reporting Standards (IFRS) are applicable. External audit is required for Associations and Companies Limited by Guarantee. The Council of Ministers may at any time request the accounts of a Charitable Trust to be audited.

By whom should audits be undertaken? Do requirements/guidelines exist regarding international and national auditing agencies and standards?

Please see reply above. IFRS will be applicable.

➤ **Supervision (which authority – what measures / sanctions?)**

The relevant legislation does not provide for any regulatory or supervisory control of foundations. The laws under which foundations are established merely impose filing or regulatory requirements on an annual basis.

Does the supervisory authority comprise of a public administrative body, a public independent body, a combination of a governmental body and a court, or a public body and an independent body?

Charitable Trusts, Societies/Associations: The Ministry of Interior.

Companies limited by Guarantee: The Registrar of Companies.

What is the extent of the supervision? Does the body review reports and make inquiries? Are public benefit organisations subject to inspection?

The relevant legislation does not provide for any regulatory or supervisory control of foundations. The laws under which foundations are established merely impose filing or regulatory requirements on an annual basis.

Is approval from the authority required for certain decisions of the Board of Directors?

Yes, certain decisions need approval, such as a decision of the members to change the name of a company limited by guarantee.

Is it mandatory to have a state supervisory official on the board?

There is no such requirement.

What enforcement measures are in place (including compliance measures and sanctions for non-compliance) concerning registrations, governance, reporting, and public benefit status?
Companies Limited by Guarantee: The Company and/or directors or officers who do not comply with the relevant legislation could be liable to a fine or imprisonment or both depending on the particular offence and/or omission.

Charitable Trusts: The board members could be liable for any omissions, negligence, or any other act in contradiction with the purposes of the trust and could also be liable for any property that is under their control.

Societies/Associations: Any officer who participates in the management/governance, and contributes towards a task which is illegal and/or undermining public security or public health, may be found liable.

Directors or officers who do not comply with matters concerning registration/governance/reporting and public benefit status could be liable to a fine or imprisonment or both depending on the particular offence and/or omission.

➤ **When and how does a foundation dissolve?**

Charitable Trusts: They may continue in perpetuity or when the trustees declare that the specific purpose for which the trust was set up has been accomplished.

Societies: A Society can be dissolved:

- At any time by a decision of the meeting of members – this requires the presence of at least one-half of the members plus one and the majority of three-quarters of those present
- If the membership is reduced below twenty
- By decision of the court on the application of the Society's management or of one-fifth of its members or a decision of the Attorney-General of the Republic if:
 - It becomes impossible to elect a management
 - It becomes impossible to continue the Society in accordance with its statutes
 - The objectives of the Society have been fulfilled
 - There has been a very long period of inactivity leading to the presumption that the objectives of the Society have been abandoned
 - The Society pursues an objective which is different from that stipulated by its statutes
 - The objectives of the Society have been declared illegal

The liquidation shall be carried out by the management of the Society (unless the law provides differently or the responsible organ decides differently), otherwise a liquidator shall be appointed by the court.

Associations: An Association shall be dissolved:

- If such events as stipulated in its act of incorporation have occurred; or
- by order of the court if:
 - The objectives of the Association have been fulfilled
 - The objectives of the Association have been rendered unattainable
 - The Association has deviated from its objectives
 - Its objectives and operation have become illegal

The liquidation shall be carried out by the management of the Association (unless the law provides differently or the responsible organ decides differently), otherwise a liquidator shall be appointed by the court.

If it is not otherwise provided in the law or in the act of incorporation of the society or if no decision has been taken by the relevant organ, the property of the dissolved institution shall be vested in the government of Cyprus which shall be obliged to carry out the objective of the Association or another identical objective by using that property.

Companies Limited by Guarantee: The company shall be dissolved by winding up either on a voluntary or compulsory basis. This will depend on the solvency position of the company at the relevant time.

➤ **Under what conditions does the civil law in your country recognise a foreign foundation?**

As long as a foundation is registered in any EU country, it may carry out activities in Cyprus.

➤ **Does the civil law in your country allow a foundation to conduct (some or all) activities (grant-making, operating, asset administration, fundraising) abroad? Is there any limitation?**

Yes, a foundation may conduct activities abroad and there are no limitations.

II. Tax treatment of the foundation

➤ **What are the requirements to receive tax exemptions (pursuing public benefit purposes, non-distribution constraint, being resident in the country?)**

Provided all the conditions are met that the Council of Ministers wishes to impose, the income of a company – which was incorporated exclusively and solely for the promotion of the arts, the sciences or sports from which it does not seek to gain profits for itself or its members, and whose activities are limited only to such causes – shall be exempt from income tax.

➤ **What are reporting/proof requirements to claim tax exemptions?**

➤ **Is specific reporting required for the use of state funds?**

➤ **Is there an obligation to report on donors and beneficiaries?**

➤ **Are there specific accounting rules for foundations?**

➤ **Is there a statutory definition in the civil law (foundation law, trust law) of your country what a public benefit purpose (charitable purpose) is? If yes, please give us the definition.**

There is no exhaustive statutory definition. Foundations apply to the Council of Ministers who then consider whether the purpose is a public benefit purpose.

- **Is there a statutory definition in the tax law of your country of what a public benefit purpose is? If yes, please give us the definition.**

There is no statutory definition in tax law of what public benefit is. In case a foundation or any other institution is recognised by the Minister of Finance as a charitable institution, the whole amount of donations with receipts is tax-deductible.

- **Support of “the public at large”**

Do the activities of a tax-exempt foundation generally have to benefit “the public at large”?

The activities of a tax-exempt foundation generally do not have to benefit “the public at large”.

If yes, can a tax-exempt foundation support a small number of disadvantaged/underprivileged individuals?

Examples: Do the following purposes promote the public at large?

	Yes	Probably yes	Unclear	Probably no	No
For benefit of the inhabitants of a city with 1,000,000 inhabitants					
For benefit of the inhabitants of a village with 10,000 inhabitants					
For benefit of the employees of a company					
For benefit of the members of a family					
For benefit of the students of a university					
Award for the best student of a university					

- **Non-Distribution Constraint**

Does a tax-exempt foundation generally have to follow a “non-distribution constraint” which forbids any financial support of the foundation board, staff, etc?

The members of the board of a foundation usually do not receive any benefit from their participation in the board but they can receive an amount for covering their expenses, although there are no restrictions. The foundation on the other hand may employ employees for serving the foundation.

What happens with the foundation’s assets in case of dissolution?

In the case that a foundation is dissolved, its assets must be given to other charitable institutions of the same nature as the foundation under dissolution or to the state.

➤ **“Altruistic” Element**

Is remuneration of board members allowed in **civil law** and in **tax law**? If remuneration is allowed, are there any limits in **civil law** and/or in **tax law**?

There are no restrictions on remuneration to members of foundation boards as long as the amounts payable are bona fide.

Does **tax law** allow a donor/funder to receive some type of benefit in return for a donation? (e.g. postcards, free tickets for a concert)

Is there a maximum amount that can be spent on office/administration costs in **civil law** and in **tax law**? If yes, how are “administration costs” defined?

There is no maximum amount that can be spent on office / administration costs as long as the amount is bona fide.

➤ **Hybrid Structures (elements of private benefit in public benefit foundations)**

Does the **civil law** of your country accept the following provisions/activities of a public benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation is required to maintain the founder, his spouse and descendants.					
The founder retains a beneficial reversionary interest in the capital of a property or other asset for his own continuing use.					
The gift is of only the <i>freehold reversion</i> (residuary interest) in a residence that is subject to an existing lease (for a term of years, or even for life) in favor of the founder (or another member of her/his family) as tenant.					
A foundation distributes a (small) part of its income to the founder or his family.					

Does the **tax law** of your country accept the following provisions/activities of a tax-exempt foundation?

	Yes	Probably yes	Unclear	Probably no	No
The founder restricts the use of the endowment by specifying that the foundation is required to maintain the founder, his spouse and descendants.					
The founder retains a beneficial					

<i>reversionary</i> interest in the capital of a property or other asset to retain for its own continuing use.					
The gift is of only the <i>freehold reversion</i> (residuary interest) in a residence that is subject to an existing lease (for a term of years, or even for life) in favor of the founder (or another member of her/his family) as tenant.					
A foundation distributes a (small) part of its income to the founder or his family.					

Are there any other examples from your country (in **civil law** and/or **tax law**) regarding such “hybrid structures” (e.g. law provisions, court decisions, etc.)?

➤ **Distributions and Timely Disbursement**

Are foundations allowed to spend down their capital?

Foundations’ assets can be spent by the foundations for serving the purpose for which they were established.

Are they allowed to be set up for a limited period of time only?

Foundations may be established for a limited period of time or to serve a particular purpose.

Does the **civil law** and/or the **tax law** of your country require a foundation to spend its income (or a certain amount of the income) within a certain period of time, e.g. within the next financial year?

A foundation is not obliged to spend its assets within a certain period of time, but as outlined above it is obliged to use them for the purpose for which it was established.

Does the **civil law** and/or the **tax law** of your country require a foundation to spend a percentage of its overall assets in the form of a “payout rule”?

The foundation is not obliged to spend any percentage of its overall assets in the form of a “payout rule”.

Example: Does the **civil law** of your country accept the following activities of a public benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public benefit purpose of the foundation.					X

Example: Does the **tax law** of your country accept the following activities of a public benefit foundation?

	Yes	Probably yes	Unclear	Probably no	No
A foundation accumulates its income for 5 years, only in the 6 th year are there distributions for the public benefit purpose of the foundation.					X

Are there any examples or cases from your country (in **civil law** and/or **tax law**) regarding the question of “timely disbursement” (e.g. law provisions, court decisions, etc.)?

➤ **Does activity abroad put the tax-exempt status at risk?**

Activity abroad has no bearing whatsoever as long as the conditions mentioned above are satisfied.

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➤ **Income tax treatment**

Public benefit organisations are exempt from income tax. Companies, other than public corporate bodies, are subject to corporation tax at a rate of 10%. Public corporate bodies, as provided by the law, are subject to a 25% rate.

Grants and donations

Investment income (asset administration)

Economic activities (related/unrelated)

Major shareholding - considered as an economic activity and taxed accordingly?

Income deriving from grant expenditure towards public benefit purpose/programme activities (such as loans, guarantees, equities)?

➤ **Capital gains tax, where separate from income tax**

Tax is imposed on profits from disposal of immovable property situated in Cyprus, or shares in companies, which have immovable property in Cyprus, and such shares are not listed in any stock market. The tax is imposed on the net profit from disposal at the rate of 20%. The net profit is calculated as the disposal proceeds less the greater of the cost or market value on 1 January 1980 adjusted for inflation. Inflation is calculated using the official Retail Price Index. The index on 1 January 1980 was 67.15. Exemptions from capital gains tax are available in several cases, e.g. for gifts to the Republic or to a local authority for educational or other charitable purposes or to approved charitable institutions.

➤ **Withholding tax on foreign investment income?**

Dividends and royalties paid to resident companies are not subject to withholding tax. Interest not accruing from ordinary business activities is subject to a 10% defence contribution as a final tax. Fifty per cent of such income is subject to corporation tax.

With regard to foreign income, resident companies are taxed on their worldwide income. Income from sources outside Cyprus is taxed in the same way as domestic income, subject to the rules listed below.

Profits from a permanent establishment abroad are exempt in Cyprus. Nevertheless, losses incurred from a business abroad, including the losses of a foreign permanent establishment, are deductible. Under a recovery rule, future profits from a permanent establishment abroad will be taxable, subject to overriding treaty exemptions. However, anti-avoidance rules in respect of passive income should be borne in mind.

Any dividends received, including foreign dividends, are exempt from corporation tax and, in general, also from the 15% defence contribution. The 15% defence contribution on dividends is payable, however, if the shareholding is below 1% or the anti-avoidance rules in respect of passive income of the distributing company are triggered.

Foreign interest income, if not accruing from ordinary business activities, is subject to a 10% defence contribution by assessment. 50% of such income is subject to corporation tax. The defence contribution is not deductible for corporation tax purposes.

➤ **Gift- and inheritance tax**

There is no gift or inheritance tax.

➤ **Value added tax (VAT)**

Value-added tax is imposed on the provision of goods and services in Cyprus as well as on the importation of goods into Cyprus. There are four rates of VAT; namely, the standard rate of 15%, the reduced rates of 8% and 5%, and the zero rate (0%).

The standard rate applies to any provision of goods and services in Cyprus which is not subject to the zero rate, the reduced rate or is exempt.

The reduced rate of 8% applies to all restaurant services and any similar catering services (excluding the sale of alcoholic drinks, beers and wine), accommodation in hotels, tourist lodgings and other similar lodgings, transportation within the Republic using urban, intercity and rural taxis and tourist and intercity buses, and the movement of passengers in waters. The 5% reduced rate applies to the provision of fertilizers, animal food, pesticides, livestock, books, newspapers and magazines, gas irrespective of package, non-bottled water, a variety of snack foods, sundry goods used by disabled persons, and transportation using public and rural buses.

Zero-rated supplies include food supplies, medicines, and exports.

Exempt supplies include rental of immovable property, financial services, hospital and medical services, postal services, insurance services, disposal of immovable property where the application for building permission has been submitted prior to 1 May 2004, and disposal of land to be used for building purposes.

➤ **Capital taxes on the value of assets, where applicable?**

There is no tax on the value of assets.

➤ **Taxes on the transfer of assets?**

Transfers of immovable property are subject to transfer fees at rates between 3% to 8%, calculated on the market value of the property, as assessed by the Land Registry Depart-

ment. There are, however, exemptions for transfers between family members and in the context of reorganisations.

➤ **Other taxes, where applicable (Real property tax)**

By virtue of the Special Contribution for the Defence of the Republic Law of 2002, all residents are subject to the defence contribution. Rental income is subject to both corporation tax and the defence contribution. The rate of the defence contribution is 3%. It is imposed on the gross rental income, as reduced by 25%. It is payable by the recipient in two 6-monthly instalments, namely on 30 June and 31 December. The defence contribution is not deductible for corporation tax purposes.

Furthermore, a contribution to the Social Cohesion Fund is chargeable at 2% on all salaries and wages of employees. The contribution is not deductible for corporation tax purposes.

With regards to social security contributions, employer contributions are payable at the following rates: social insurance fund at 8.3%, redundancy fund at 1.2% and training development fund at 0.5%. The maximum amount of monthly earnings on which the contributions are payable is 2,076 Cyprus pounds (CYP) (approximately €3,500). The contributions are deductible for corporation tax purposes.

Immovable property located in Cyprus is subject to real estate tax. The tax is levied on the estimated market value of the property on 1 January 1980. Rates range from 0% on the first 100,000 CYP to 0.4% on the excess over 500,000 CYP. The tax is payable by the end of September each year. It is not deductible for corporation tax purposes.

➤ **Can a foreign foundation get the same tax benefits as a national foundation according to the wording of the tax law in your country? If yes, under what conditions?**

A foreign foundation cannot get the same tax benefit as a national foundation because in order to get the benefit it must be recognised as a charitable foundation and only foundations registered in Cyprus are eligible for this status.

➤ **What is the tax treatment (inheritance and gift tax) of legacies to non-resident public benefit foundations?**

➤ **Are there current discussions about the question of whether cross-border activities of foundations or other non-profit organisations are protected by the fundamental freedoms of the EC Treaty? Especially: Are the consequences of the Stauffer decision of the European Court of Justice and/or the current infringement procedures of the European Commission discussed by legal scholars or by practitioners? (e.g. publications in law journals) / Have there been any resulting changes to your country's legislation, or are changes being discussed?**

III. Tax treatment of donors

➤ **System of tax credit or tax deduction?**

Tax credit. A tax credit is available where grants or donations were made for educational or other charitable purposes to the Republic or a local authority or to any other charitable institution, which is approved as such by the Council of Ministers.

➤ **Tax treatment of individual donors**

Any type of donation is acceptable. There is no limit on the tax incentive and the whole amount of the donation can be deducted. This is however subject to certain conditions, which are examined on a case-by-case basis.

In the event of a loss which took place within the year of the grant or the donation, any part of the loss suffered equal to the level of the total grant or donation amount will not be carried forward and will not be consolidated with the income of future years.

➤ **Tax treatment of corporate donors**

The same conditions are applicable as to individual donors.

➤ **Tax treatment of donations to non-resident public-benefit foundations**

Where a donation is made to a non-resident public benefit foundation which has met all the conditions that the Council of Ministers wishes to impose, then a tax credit is available.

➤ **Other frameworks such as percentage law systems**

Not applicable.

➤ **What are reporting/proof requirements to claim tax benefits?**

IV. Tax treatment of the beneficiary (receiving a grant or other benefit from a foundation)

If individuals or legal entities satisfy the requirements provided in the first answer (page 1 of the profile) regarding the tax treatment of the foundation, then there will be exemption from tax.

V. Trends and developments

➤ **Recent trends or developments affecting the legal and fiscal environment for public benefit foundations**

➤ **Impact of anti-terrorist debate**

Is there a specific national/regional anti-terrorism act (legislation) in your country, (which one and date of entry into force or adoption)?

Money- Laundering Law of 188/2007 of 31/12/2007.

If so, has this law introduced new legal and regulatory requirements for foundations (please describe)?

No

Has the foundation supervisory authority introduced new regulatory/oversight requirements to comply with counter terrorism measures/law?

No

Has the foundation supervisory / regulatory authority(ies) introduced guidance tools to assist foundations to comply with counterterrorism measures/law?

No

If so, did the foundation supervisory authority engage in a consultation with the foundation sector on counter terrorism measures/ does it plan such a consultation?

No

➤ **Public fundraising**

Are there any specific laws that regulate fundraising and do they affect foundations?

No

Useful contacts

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