

EFC LEGAL AND FISCAL COUNTRY PROFILE

*The operating environment for
foundations*

LATVIA – 2014

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The operating environment for foundations

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I. Legal framework for foundations

1. 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)?

Yes, a foundation is an aggregate of property set aside for a purpose defined by the founder. The law on associations and foundations identifies only one type of foundation and does not divide them into different types. But there are also public foundations which are created by the state and are governed by a separate law for each.

2. What purposes can foundations pursue?

Foundations can have any legal purpose except the making of profit. If a foundation has a narrow goal, it might be difficult for it to get the status of public benefit organisation.

3. 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?

A foundation can be established by at least one individual or legal body. Foundations are registered and documents are submitted in the State Register of Companies, which includes the Register of Associations and Foundations (the "Register"). Registering a foundation takes 7 days.

4. 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?)

No

5. Do foundations have to register? If yes, in what register?

Yes, in the State Register of Companies.

a) If foundations are registered, what information is kept at the register?

Title of the foundation; legal address; aim of the foundation; date of confirmation and signing the statutes; name, surname and personal code of executive board members, and their rights of representation (single, together with x members etc.); period of time the foundation is set up for; data about legal procedures, court decisions, reorganisation, dissolution, etc.

b) If foundations are registered, is the register publicly available?

Yes (Some fees are payable).

6. Is a minimum founding capital required? Is the foundation required to maintain these assets or any other specified asset level throughout its lifetime?

No

7. What governance requirements are set out in the law?

A foundation has to have an executive board with at least 3 members if there is no other governing institution in the foundation with the authority to supervise the foundation's executive board. If there is one, the executive board can also be composed of 1-2 persons.

Foundations also have to have an auditing institution with one or more members. Foundations can create other governing bodies with authority described and specified in the statutes. A board member can resign whenever he/she wants to, by giving written of the resignation. The term of office is prescribed in the statutes.

The board makes decisions on all questions concerning the foundation. The founder forms the first structure of the board and may have special rights if prescribed in the statutes.

a) Is it mandatory to have a supervisory board?

No

b) 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?

No requirements are defined concerning either executive or governing/supervisory board members. The statutes must describe the appointment or election process of all governing bodies of a foundation.

A board member can be any individual who has reached the age of 18 if there are no other restrictions described in the statutes regarding criteria for board membership.

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

Not specified for governing board. The Executive board is fully responsible for all actions taken by the foundation.

d) 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?

Rights of funders are described in the statutes. The statutes can prescribe that fundamental decisions can be made just by the executive or governing board's decision, that they can be made by decision of the founders, or that they can be forbidden altogether.

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

These are not specified in law.

f) 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?

It is forbidden to finance, or to issue loans or warranties to members of any governance structure (executive board, supervisory board etc.) or their close relatives.

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

The law does not set any restrictions for staff members to be in decision-maker roles (board member etc.). Typically, CEO is also the chairperson of Executive Board and, thus, the main or one of key decision-makers in the foundation.

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

The law stipulates that executive board members represent the foundation. The statutes should stipulate whether each member alone is allowed to represent the foundation, or whether a pair or group of members can do so, or only all members together.

a) Do the director and officers have powers of representation?

Director and/or officers can be authorised by the executive board to represent the foundation in certain situations, but generally the law does not include staff members as legal representatives. Practically, chairman of executive board usually is also the director.

9. Liability of the foundation and its organs

The foundation is responsible for all the activities it has performed. Board members are responsible for the management of the foundation. Meanwhile, members of the executive board are collectively responsible for losses incurred by the foundation.

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

The law states that “board members act voluntarily, unless the statutes stipulate otherwise.”

b) 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?

We are not aware of such a concept in Latvia.

c) What is the liability of executive staff?

Liability of directors and officers is set according to the labour contracts or similar documents, but law does not prescribe it.

d) Can the founder modify the standard of diligence for board members in the foundation’s statutes?

No

e) 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.		X - it might be required that this money is returned, unless there is very strong justification otherwise			
The foundation loses its status of a tax benefit foundation (because one requirement in tax law was not fulfilled).					X - unless financial loss is caused
The foundation loses money because a board member has acquired some stocks in a company which unexpectedly went bankrupt.					X - unless this leads to the bankruptcy of the foundation
The foundation sells immovable property to the spouse of a board member. The board member was unaware that the price was too low.			X – law does not forbid deals with spouses, but says they cannot benefit from the foundation		
The foundation sells immovable property to a third person. The board member was unaware that the price was too low.			X - can and has to be discussed		

10. Are economic activities¹ allowed (related/unrelated)? If so, is there a ceiling/limit on economic activities (related/unrelated)?

Economic activities (both related and unrelated) are allowed as income-generating activities, but this funding must be used for achieving the aims of the foundation.

11. Are foundations permitted to be major shareholders?

There are no rules regarding any kind of shareholding by foundations.

¹ For the purposes of this profile economic activity can be understood as “trade or business activity involving the sale of goods and services”. “Related” economic activity is in itself related to and supports the pursuance of the public benefit purpose of the foundation. According to the above, normal asset administration by foundations (including investment in bonds, shares, real estate) would not be considered as economic activity.

12. Are there any rules/limitations in civil and/or in tax law regarding foundations' asset management? What, if any, types of investment are prohibited?

There are no rules regarding any kind of shareholding by foundations. All foundation assets are managed by the executive board. Prescriptions on asset management do not appear in the law.

Foundations with public-benefit status might have debates regarding tax law, as investments are considered to be "administrative costs" and are limited to certain amount.

13. 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)

It depends. Foundations which have received the status of public-benefit organisation can use granted funds only for public-benefit purposes, and they are not allowed to finance commercial or political activities. This might exclude a loan to a start-up enterprise, but does not exclude loan, for example, to poor family or to another NGO,

Granted funds cannot be transferred for the benefit of the founders or board members or their relatives, so the foundation cannot be used in any other way to give direct or indirect benefit (loans, guarantees, promissory bills or other material benefits).

14. What are the requirements for an amendment of statutes/amendment of foundations purpose?

Amendments to the statutes are made by the executive board of the foundation if there are no other rules prescribed in the statutes. In the statutes it can be stated that for any changes, including amendment of foundation's purpose, the consent of the founder or some other governing institution is required. The statutes may also state that changing the purpose of the foundation is forbidden.

15. What are requirements with regard to reporting, accountability, auditing?

a) What type(s) of report must be produced?

- annual financial report:
 - balance sheet, income/expenditure report and donation report must be submitted;
 - if annual income is less than €40,000, then balance sheet may not be mandatory (depending on chosen accountancy system), for public-benefit foundations additional detailed reports may be required (expenditure of donations, expenditure of income generated by economic activities, administrative expenditures);
- Short annual activity report – it must be attached to financial report,
- Public benefit/activity report – it must be submitted by foundations that have obtained public-benefit status. Report includes achievements in the last year and plans for next year,
- tax report/tax return – no,
- Other reports e.g. on 1% schemes) – no.

b) Must all/any of the reports produced by the foundation be submitted to the supervisory authorities? If so, to which authorities (e.g. foundation authority, tax authority)?

All annual reports (including public benefit report) must be submitted to the tax administration office.

c) Are the reports checked/reviewed? By whom (supervisory/tax authorities)?

Tax administration office (Revenue Service). The public benefit report is reviewed by special Public Benefit Commission (representatives from diverse sectors, including NGOs), established under State Revenue Service.

d) Do any or all of the reports and/or accounts of foundations need to be made publicly available? If so, which reports and where (website, upon request)

No, it is voluntary.

Annual reports are published by State Registry and available online (for a fee). Public benefit reports are published on website of State Revenue Service and are available free of charge.

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

Not required.

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

Not required.

16. Supervision (which authority – what measures / sanctions?)

The supervisory organ is the tax administration office (Revenue Service) which supervises the use of assets and payment of taxes. It may apply certain sanctions for violation of tax laws.

Tax Revenue Service supervises the activities of public benefit organisations and may annul the public benefit status of those organisations that are not observing the rules of the Law on Public Benefit Organisations.

The activity of a foundation can be stopped by a court decision if it has committed a violation of the law.

a) 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?

It is Public administrative body.

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

The authority reviews the financial data of the foundation, and may organise an inspection at the office of foundation. Any supervision is mainly targeted towards financial and tax management, not

the content (activities of the foundation). Public benefit organisations are inspected more strictly since their actions influence income tax payments.

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

No

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

No

e) What enforcement measures are in place (including compliance measures and sanctions for non-compliance) concerning registrations, governance, reporting, and public benefit status?

Measures can be taken if foundation goes against the law, e.g. does not prepare, or delays its annual report; does not inform the Enterprise Registry of changes to the executive board; or does not pay taxes etc.

17. When and how does a foundation dissolve?

The decision to dissolve a foundation is taken by the board in accordance with the statutes and only in cases prescribed by the statutes.

Also, a foundation is dissolved if a specific duration for the foundation is defined by the statutes and this has reached its term, or if a specific aim is set in the statutes and this aim has been fulfilled.

A foundation can also be dissolved by a court decision.

18. Under what conditions does the civil law in your country recognise a foreign foundation?

No law recognises such a legal form as 'foreign foundation'. To conduct economic activities in Latvia, a foundation must to be established as a foundation in Latvia.

19. 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?

No limitations are set in the Latvian laws concerning activities abroad.

II. Tax treatment of the foundation

1. What are the requirements to receive tax exemptions (pursuing public benefit purposes, non-distribution constraint, being resident in the country?). Is there a special approval process for receiving tax exemption? If so does the process have to be repeated every year?

Tax exemptions are applied only to organisations with public benefit status and those organisations which are registered in the register of social service providers. Public-benefit status is approved for unlimited time, until it is stopped for a violation of law.

2. What are reporting/proof requirements to claim tax exemptions? What does the foundation have to submit to the authorities (statutes, financial reports, activity reports, other?)

Having public benefit-status and preparing an annual report on public benefit activities can be enough. Sometimes, a request for tax exemption is required before tax exemptions apply.

3. Is specific reporting required for the use of state funds?

This depends on each funding contract, but usually a report on outcomes and a financial report (including copies of accountancy documents) are required.

4. Is there an obligation to report on donors and beneficiaries?

A list of donors must be included in the annual report of all non-governmental organisations.

5. Are there specific accounting rules for foundations?

No

6. 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.

Yes, according to the Law on Public Benefit Organisations:

“Public benefit activity is activity that makes a significant contribution to society or a part of it, particularly if it is aimed at charity, protection of human and civil rights, development of civil society, promoting education, research, culture, health, and disease prevention, or supporting sports, environmental protection, rendering help in disasters and emergency situations, or improving social welfare, especially of poor and socially disadvantaged (underprivileged) people.”

7. 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.

Tax law does not define public benefit purpose, but refers to the Law on Public Benefit Organisations (see above).

8. Please indicate whether the following purposes would or would not be accepted for tax privileges in your country:

Public benefit purpose	Accepted in tax law (for tax privileges)			
	Yes	Probably yes	Probably no	No
Arts, culture or historical preservation	X			
Environmental protection	X			
Civil or human rights	X			
Elimination of discrimination based on gender, race, ethnicity, religion, disability, sexual orientation or any other legally prescribed form of discrimination*		X		
Social welfare, including prevention or relief of poverty	X			
Humanitarian or disaster relief*		X		
Development aid and development cooperation				X
Assistance to refugees or immigrants				X
Protection of, and support for, children, youth or elderly	X			
Assistance to, or protection of, people with disabilities	X			
Protection of animals*		X		
Science, research and innovation	X			
Education and training	X			
European and international understanding				X
Health, well-being and medical care	X			
Consumer protection				X
Assistance to, or protection of vulnerable and disadvantaged persons	X			
Amateur sports	X			
Infrastructure support for public benefit purpose organisations*		X		
<i>Other – please list other purposes accepted in tax law for tax privileges in your country</i> Civil society's development	X			

*** Notes:**

- Elimination of discrimination based on gender, race, ethnicity, religion, disability, sexual orientation or any other legally prescribed form of discrimination: Would be considered as a part of civil society's development.

- Humanitarian or disaster relief: Humanitarian – if this local charity/philanthropy, then yes. Otherwise law defines "provision of assistance in cases of catastrophes and extraordinary situations".

- Protection of animals: Would be considered as part of environmental protection.
- Infrastructure support for public benefit purpose organisations: It would always be discussion whether infrastructure is administrative expenditure or directly targeted to some audience.

9. Support of “the public at large”

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

Yes

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

Yes

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	X				
For benefit of the inhabitants of a village with 10,000 inhabitants	X				
For benefit of the employees of a company					X
For benefit of the members of a family				X - unless a poor family	
For benefit of the students of a university	X - if it promotes education, research, or helps underprivileged students				
Award for the best student of a university		X			

10. Non-Distribution Constraint

a) Does a tax-exempt foundation generally have to follow a “non-distribution constraint”² which forbids any financial support of the foundation board, staff, etc.?

Yes

² For the purposes of this profile, a non-distribution constraint implies that any transactions/benefits to third parties going beyond reasonable compensation for services rendered are prohibited (such as unreasonable board remuneration or excessive payments to service deliverers) except where transactions/benefits provided are part of the direct promotion of the public benefit purpose.

b) What happens with the foundation's assets in case of dissolution?

The statutes should define what happens in this case. However, assets cannot be distributed among founders, members of the board and other institutions, or their relatives.

11. "Altruistic" Element

a) 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**?

Yes, it is allowed. For public benefit organisations, civil law stipulates that remuneration must be reasonable.

b) 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)

No

c) Is there a maximum amount that can be spent on office/administration costs in **civil law** and in **tax law**?

For public benefit organisations civil law states that 25% of general donations is the maximum that can be spent on administration costs.

Administration costs include: Materials used to support the needs of the organisation, purchase of fixed assets (computers, furniture, etc.) and stocks, salaries and related taxes, real estate tax, expenditures on telecommunications, postal services, travelling allowances, and advertising costs.

However, a foundation can reduce administration costs by categorising some of these expenses as directly connected with public benefit activities.

If yes, how are "administration costs" defined? Please indicate which of the following types of expenditures would/would not be considered as "administration costs":

- Personnel costs (staff salaries/payroll costs) – yes
- Board remuneration – yes (would be considered as salary)
- Costs of external audit – yes
- Other legal/accounting costs – yes
- General office overheads (rent/mortgage payments, utilities, office materials, computers, telecommunications, postage) – yes
- Insurance – may depend on what kind of insurance
- Publicity and promotion of the foundation (e.g. website, printed promotional materials) – yes, but could be described as "promotion of values" (awareness building), which can be considered as public benefit
- Asset administration costs – yes
- In the case of an operating foundation – costs related to programmes/institutions run by the foundation – no
- Costs related to fundraising – depends. Direct fundraising – yes, but "promotion of giving culture" can be considered as public-benefit activity.

Any of items above (fully or partly) can be excluded from administrative costs by categorising them as directly connected with certain public-benefit activities.

12. Hybrid Structures (elements of private benefit in public benefit foundations)

a) 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.					X
The founder retains a beneficial reversionary interest in the capital of a property or other asset for his own continuing use.				X	
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.				X	
A foundation distributes a (small) part of its income to the founder or his family.					X

b) 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.					X
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.				X	
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.				X	
A foundation distributes a (small) part of its income to the founder or his family.					X

13. Distributions and Timely Disbursement

a) Are foundations allowed to spend down their capital?

If the issue of the capital/endowment is addressed by the statutes, spending down may be permitted in line with what the statutes prescribe.

b) Are they allowed to be set up for a limited period of time only? If so, is there a minimum length of time for which the foundation must exist?

Yes, a particular period of time or a particular achievable aim/purpose can be stated in the statutes. No limitations are set by the law.

c) 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? If so, is there a specific amount/percentage of the income that must be spent within this time? Which resources would be considered as income? E.g. would donations/contributions designated as being for building up the endowment be included in /excluded from the income to be spent? What expenditures would count towards the disbursement of income (e.g. would administration costs be included/excluded?)?

No

d) 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 “pay-out rule”?

No

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*				

*the foundation has to be ready to justify its action and plans for Public Benefit Commission.

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				

14. Does activity abroad put the tax-exempt status at risk?

Tax exemptions are not applicable to activity abroad.

15. Are there any civil and/or tax law rules regulating cross-border grants by a foundation? If yes, please provide a description of the requirements the foundation must fulfil in such cases.

The law does not say anything about cross-border grants.

16. Income tax treatment

Foundations do not pay income tax.

How are the following types of income treated for income tax purposes?

Grants and donations

Not taxed (neither received grants, nor given grants).

Investment income (asset administration)

- Interest from fixed rate bonds

Not taxed.

- Equities

Not taxed

- Income from leasing of a property that belongs to the foundation

Not taxed.

Economic activities related/unrelated

No income tax is paid. Limits are very unclear, but they could be concluded like this: as long as economic activity is not dominating, it is allowed.

Important: Related taxes (VAT, social insurance and income tax for staff) still apply; these regulations are the same as for commercial entities.

- Income from running a hospital/museum/opera

Not taxed.

- Income from producing/selling books (e.g. art books sold by a cultural foundation)

Not taxed.

- Income from running a bookshop inside a museum/opera run by the foundation

Not taxed, but could be questioned by Public Benefit Commission.

- Income from running a café in the hospital/museum run by the foundation

Not taxed, but could be questioned by Public Benefit Commission.

- Income from selling T-shirts (activity not related to the pursuance of the public benefit purpose)

Not taxed, but could be questioned by Public Benefit Commission if becomes daily business of the foundation.

- Income from intellectual property (e.g. royalties and licence fees)

Not taxed.

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

Not taxed.

Is major shareholding considered as an economic activity and taxed accordingly?

There is no precedent for this in Latvia, but income from shares is not taxed for foundations.

17. Are capital gains subject to tax? If so, are they taxed as income or liable to a separate tax?

No

18. Does any kind of value added tax (VAT) refund scheme for the irrecoverable VAT costs of public-benefit foundations exist in your country?

Foundations have to register as VAT payers if income from economic activities (excluding grants, donations, budgetary subsidies, etc.) in the last 12 months has reached the limit of €50,000. Foundations are exempt from paying VAT if their income from economic activities does not exceed this limit. There are no additional schemes or exemptions available specific to public-benefit foundations.

19. Is capital tax levied on the value of assets, where applicable?

No

20. Are there taxes on the transfer of assets by foundations?

No

21. Are there any other taxes to which public-benefit foundations are subject there (e.g. real property tax)?

Real estate tax has to be paid by foundations. There is an annual procedure for public benefit organisations that own real estate in which they are carrying out public benefit activities to receive an exemption from real estate tax.

22. 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 – if they have to fulfil exactly the same requirements as local based public benefit foundations, please refer to above but indicate which documents need to be provided and translated:

- Statutes (translation required?)
- Last annual financial report (translation required?)
- Documents providing evidence for certain tax law requirements e.g. that income was actually spent for public benefit purposes, which may not be required by the organisation's country of seat but are required according to the legislation of the country from which tax benefits are sought?
- Other?

No – A new association or foundation must be set up in Latvia with its own statute, accountancy etc. Statute may be related to international “mother-organisation” without any legal bindings.

23. Does your country apply withholding tax to the income from local investments held by domestic and/or foreign-based foundations? If so, can domestic or foreign-based foundations reclaim all or part of the withholding tax under domestic law?

No

III. Tax treatment of donors of public benefit foundations

1. System of tax credit³ or tax deduction⁴?

Individuals who donate to a public benefit organisation can receive an income tax deduction. A corporate donor giving to public benefit organisations may receive a tax credit.

2. Tax treatment of individual donors

a) What tax relief is provided for individual donors? Is there a minimum and/or a ceiling to a contribution on which tax incentives can be claimed?

They can receive an income tax deduction of 24% (in 2013; i.e. equal to the income tax rate) of donated sums, but not exceeding 20% of taxable income.

b) Which assets qualify for tax deductibility?

Individual donors may make any kind of material donation (cash, shares, securities, real estate, in-kind donations).

3. Tax treatment of corporate donors

a) What tax relief is provided for corporate donors? Is there a minimum and/or a ceiling to a contribution on which tax incentives can be claimed?

They can receive a tax credit of 85% of donated sums, but not exceeding 20% of total amount of payable tax.

b) Which assets qualify for tax deductibility?

Corporate donors (residents and permanent offices) can make any kind of donation (cash, shares, securities, real estate, in-kind donations).

³ For the purposes of this profile tax credit can be defined as an amount that can be deducted from the actual tax to be paid (reduction in amount of tax paid)

⁴ For the purposes of this profile tax deduction can be defined as a reduction in the gross amount on which tax is calculated (reduction in taxable income/tax base)

4. Tax treatment of donations to non-resident public-benefit foundations – do donors get the same tax incentive?

Equal tax incentives are available for donations to non-resident foundations based in European Union and EEA countries, as are offered for local donations.

5. Other frameworks such as percentage law systems

Not at present.

6. What are the requirements that the donor must fulfil/ information they must provide in order to claim tax benefits?

What information do donors have to provide to their tax authority in order receive tax incentives for their donation (e.g. submitting details on the organisation they support: statutes, annual financial report, documents providing evidence for certain tax law requirements e.g. that income was actually spent for public benefit purposes?)?

For corporations: Donations must be included in annual report. Sometimes, the Revenue service requests additional documentation, but it depends on the individual case.

For individuals: Income declaration must be submitted with donations included. Payment documents must be added.

All donations appear in annual reports of foundations, thus the Revenue Service can easily compare the data given by donors and by public benefit organisations.

7. Are there any different or additional requirements to be fulfilled when a donor is giving to a foreign-based foundation?

What information do donors to foreign-based organisations have to provide in order receive tax incentives for their donation (e.g. Statutes (translation required)? Annual financial report (translation required)? Documents providing evidence for certain tax law requirements e.g. that income was actually spent for public benefit purposes?)?

Not clarified in the law.

Translations of any foreign-language documents may be required as Latvian language is only officially recognized language in communication with state institutions.

It might work as follows (bullet references as in laws):

- a) registration certificate (confirms country of registration);
- b) any document (certificate, decision etc.) that explains having public benefit status – this might raise many questions from Latvian State Revenue Service;
- c) statute should work to describe that recipient is engaged in activities of public benefit;
- d) copies of financial documents of expenditure.

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

1. Individuals

They do not pay income tax on material assets received from public benefit organisations as support, provided the amount does not exceed the annual untaxed maximum (this changes every year: €1,350 in 2008 and €600 in 2010, and €770 in 2013).

2. Legal entities

Legal entities do not pay any taxes from received grants.

3. Are there any different or additional requirements that must be fulfilled by a beneficiary receiving funding from abroad?

No.

V. Gift and inheritance tax

No

1. Does gift and inheritance tax/transfer tax exist in your country and if yes who has to pay the tax in the case of a donation/legacy to a public-benefit organisation (the donor or the recipient organisation)?

No. But there is certain state fee regarding inherited real estate,

2. What are the tax rates? Is there a preferential system for PBO's? Which PBO's qualify? Is there a difference according to the region or the legal status of the PBO?

Rate of state fee varies depending on legal status and relation to donor. Legal entities (including foundations) have higher rates to pay, and there is no preferential system for PBOs.

3. Is there a threshold (non-taxable amount) from gift and inheritance tax for donations/legacies to public-benefit organisations?

There is no tax to be paid as such, therefore also threshold is not defined.

4. Is there a legal part of the estate that is reserved for certain protected heirs and which a donor cannot give to third parties?

Yes, there is, but the amount depends on number of appropriate relatives (spouse and children, or parents if person has no kids). Each protected heir has rights for half of the legacy he would get by law.

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

Not defined.

VI. Trends and developments

1. Are there current discussions about the question of whether cross-border activities of foundations or other non-profit organisations and their donors are protected by the fundamental freedoms of the EC Treaty? Have there been any changes to your country's legislation, resulting from the Persche, Stauffer, Missionswerk or other relevant ECJ judgments, or are changes being discussed?

This issue is not widely discussed, since NGO issues are generally discussed in general terms only. Due to the requirements of the European Commission, discounts for corporate and individual income taxes are applied if a donation is given to a public benefit organisation in any European Union/European Economic Area (EEA) country.

2. Has the fight against terrorism and financial crime led to the introduction in recent years of new laws / rules affecting the foundation sector (e.g. implementation of EU Anti Money Laundering Directive, or reactions to recommendations of the Financial Action Task Force)?

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

Anti-terrorism is a part of national security. Since 2003, a government action plan for combating terrorism has been implemented. As a result, several changes in Latvian legislation have been introduced, concentrating mainly on cooperation among governmental and European institutions, police, and other governments.

In the summer of 2008 a new law was adopted: The Law on Prevention of Legalisation of Proceeds (Resources) from Crime and Financing of Terrorism (adopted in parliament on 17 July 2008, it came into force on 13 August 2008).

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

No, foundations are not a subject of the law described above, unless they conduct extensive economic activities involving real estate, transport, jewellery etc.

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

No

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

No

e) 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?

3. Are there any other recent trends or developments affecting the legal and fiscal environment for public benefit foundations in your country?

Recently, some discussions about limitations on NGO activities have taken place, but all have been concluded in a positive way. Forbidding economic activity was one of the topics under discussion, but the issue is no longer open.

Voluntary work and its legal framework is currently a big issue, since current legislation does not deal adequately with recognise volunteerism.

4. Public fundraising

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

No

Useful contacts

Civic Alliance Latvia
Gertrudes str 19/21-3 (2. stavs)
LV-1011 Riga
Latvia
Web: <http://www.nvo.lv>

Selected bibliography

Please list here any books/articles which provide further information on the any of the topics discussed in the profile. Links to online articles/resources are also appreciated

Selected law texts online:

- Civil Law: http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/The_Civil_Law.doc
- Associations and Foundations Law:
http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Associations_and_Foundations_Law.doc
- Public Benefit Organisation Law:
http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Public_Benefit_Organisation_Law.doc
- Law on Personal Income Tax:
http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/On_Personal_Income_Tax.doc
- Law on Enterprise Income Tax:
http://www.vvc.gov.lv/export/sites/default/docs/LRTA/Likumi/Enterprise_Income_Tax.doc

About the EFC Legal and Fiscal Country profiles

This profile is part of a series of profiles of the legal and fiscal environments for foundations in 42 different countries across the wider Europe, as well as some countries in other world regions. The aim of these profiles is to paint a picture of the current operating environment for foundations in these countries to better understand the legislative landscape foundations inhabit. The profiles are produced in collaboration with foundations, legal experts, and associations in each country. Each profile is written by the national-level expert. A comparative overview of the country profiles from wider Europe can be downloaded from the EFC website: “Comparative Highlights of Foundation Laws: The Operating Environment for Foundations in Europe.”

www.efc.be

About the European Foundation Centre

The European Foundation Centre, founded in 1989, is an international membership association representing public-benefit foundations and corporate funders active in philanthropy in Europe, and beyond. The EFC develops and pursues activities in line with its four key objectives: creating an enabling legal and fiscal environment; documenting the foundation landscape; building the capacity of foundation professionals; and promoting collaboration, both among foundations and between foundations and other actors. Emphasising transparency and best practice, all members sign up to and uphold the EFC Principles of Good Practice.