

2020

Legal Environment for Philanthropy in Europe

Latvia

COUNTRY PROFILE

By Ansis Bērziņš
Community Foundation
Movement in Latvia

Contents

- I. Legal framework for foundations 3
- II. Tax treatment of foundations..... 10
- III. Tax treatment of donors of foundations..... 17
- IV. Tax treatment of beneficiaries 19
- V. Gift and inheritance tax 20
- VI. Trends and developments 21
- VII. Further information 23
 - Useful contacts..... 23
 - Selected law texts online 23
- VIII. About 24
 - Philanthropy Advocacy 24
 - Donors and Foundations Networks in Europe (Dafne) 24
 - European Foundation Centre (EFC)..... 24

I. Legal framework for foundations

1. **Does the jurisdiction recognise a basic legal definition of a foundation? (please describe) What different legal types of foundations exist (autonomous organisations with legal personality, non-autonomous without legal personality, civil law, public law, church law, corporate foundations, enterprise foundations, party political foundations, family foundations, foundations of banking origin as a specific type, companies limited by liability, trusts)? Does your jurisdiction recognise other types of philanthropic organisations?**

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. However, they are not intended for philanthropic purposes.

Any association or foundation could act as a philanthropic organisation, based on their mission and statutes.

2. **What purposes can foundations legally pursue?¹**

- Only public-benefit
 Both public- and private-benefit

However, “no-profit” is a condition for foundations.

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 to the State Register of Companies, which includes the Register of Associations and Foundations (the “Register”). Registering a foundation takes 7 days. There are no specific criteria for registration.

4. **Is state approval required? (approval by a state supervisory authority with/without discretion)**

- Approval by a state authority with discretion
 Approval by a state authority without discretion
 Approval by a court
 Notarisation by a notary public

There is no institution that would allow or forbid the registration of the foundation. Only a notarial act of the State Register is needed to verify that documents are legally correct and that the foundation can be registered.

5. **Are foundations required to register?**

- a) If foundations must register, in what kind of register?
- Company register
 Foundation register at national level
 Foundation register at the regional/county level
 Beneficial ownership register
 Any other public register (other than a foundation/charity one)

¹ This question focuses only on public-benefit foundations; see the definition in the Glossary developed for this project, which can be found on the Philanthropy Advocacy website.

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

Name, legal address, purpose/aim of the foundation, date of setting up the foundation, names and identification numbers (or other identification data for foreigners) of members of the executive body (governing board) and their rights of representation (single, together with a certain number of members etc.), period of time the foundation is set up for; data about legal procedures, court decisions, reorganisation, dissolution, etc.

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

- Yes, all information publicly accessible
- Yes, some information publicly accessible
- Yes, accessible upon request
- No

6. Is a minimum founding capital/endowment required?

- No
- Yes, amount:

7. Is the foundation required to maintain these assets or any other specified asset level throughout its lifetime? Are spend-down foundations allowed?

N/A

8. What governance requirements are set out in the law? Is it a one-tier or two-tier foundation governance model?

a) Is it mandatory to have a:

- Supervisory board - yes, if governing board is less than 3 people. Otherwise – no.
- Governing board

b) What are the requirements concerning board members? Is a minimum/maximum number of board members specified? Does the law regulate the appointment of board members and their resignation/removal or can this be addressed in the statutes/bylaws?

The governing board must have at least 3 members. If it has only 1 member, then an additional supervisory body has to be established with at least 3 members and with the function of supervising the governing board. Governing board members must be adults (18+). No other requirements.

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

Governing board members have full rights and responsibilities to run the foundation and decide on its operations, unless the statutes define approval by other internal bodies.

d) What are the rights of founders during the lifetime of the foundation? 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 law does not prescribe any role of founders after the establishment of the foundation, unless this is specified in the statutes. If the statutes allow, then even change of purpose can be made without the involvement of the founders. The law states that the statutes can be changed only by the governing board according to the rules of the statutes or if the change is justified with circumstances that are different from those when the foundation was established.

- e) Can the board or the founder amend the statutes including the purpose of the foundation? If yes, please indicate any particularities. What is the relationship between the powers of the founders, the statutes of the foundation and the power of the board members?

Basically, the statutes prescribe how changes to the statutes can be made. If the statutes do not prescribe such an option, then the statutes cannot be changed. The statutes may limit changes to specific chapters by necessitating the approval of the supervisory board or the founders, etc. However, only the governing board has the right to change the statutes. It may be possible (without prescription in law, but according to analogy of enterprise regulations) that founders initiate the changes of the statutes, but the agreement of the governing board is still needed.

- f) What are the rights of third parties (e.g. right of information)?

Basic data about foundations are available publicly and for free. To access data of individuals (e.g., board members, authorisation is required). Donors must have access to information and documents of the foundation to verify operations of the foundation.

- g) 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.

The law prescribes limitation for members of any of the foundation's bodies: If the foundation's interests conflict with private interests of a member (or one's relative, levels specified in law), then this member may not be involved in debating and making decisions on this matter.

Self-dealing is not prohibited, for example, a single governing board member will normally sign a labour contract with him/herself.

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

Practically, in many cases, the chair of the governing board is also the executive director.

However, the participation of the director and/or officers can be described in the statutes, but the law does not prescribe it. Also, the law does not prevent employees from being part of governing or supervisory bodies.

9. What is the liability of the foundation and its organs? What is the general standard of diligence for board members? (e. g. duty of obedience, duty of care/prudence, duty of loyalty)? In what type of rule are these criteria established: fiscal, administrative, civil, commercial? Is there a solid case law, if any, regarding the duty of due diligence? Does your country differentiate between voluntary (unpaid) and paid board members? Who is allowed to bring a complaint about breaches of such duties: the other members of the board, the founder/s, the public authorities? If a complaint is brought, which authority has competence in such cases: administrative, tax authority, only the judiciary power (attorney general) or beneficiaries/general public?

The law states that governing board members are collectively responsible for any losses. Other bodies normally are not financially liable. There are no standards for diligence, loyalty or other intangible aspects.

Does your country differentiate between voluntary (unpaid) and paid board members?

No. The law states that "board members act voluntarily, unless the statutes stipulate otherwise."

Who can claim responsibility for breaches of such duties: the other members of the board, the founder/s, the public authorities. In which case who: administrative, tax-authority, only the judiciary power (Attorney General) or beneficiaries/general public?

Apart from tax authorities, this is not specified in law. Typically, the new governing board would discover breaches of the previous board, and may decide to sue them.

10. Who can represent a foundation towards third parties? Is this specified in law or is it up to the statutes of the organisation? Do the director and officers have powers of representation based on legislation?

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.

11. Are purpose-related/unrelated economic activities allowed? If so, are there other types of limitations on economic activities (related/unrelated)?

Yes, purpose-related and unrelated economic activity are allowed. Income must be used for the aim of the foundation. Additional limitations apply to foundations with public-benefit status.

12. Is there any legal/fiscal framework for grantmakers to be able to fund legal entities that are conducting economic activities in addition to their public utility activities? If any, what are the limitations for funding those kinds of legal entities?

Public-benefit foundations cannot disburse their received donations to support the economic activities of other organisations. But this does not limit the foundation's rights to fund this organisation if the recipient can distinguish between their economic activity and public-benefit activities.

13. Are foundations permitted to be major shareholders in a company? Are there any limitations to voting rights? Is this considered as an economic activity?

No, there are no limitations. An additional limitation applies to foundations with public-benefit status – purchase of stocks/shares is considered as part of administrative costs, which are limited to 25% of general donations that are spent in a year.

14. Are there any rules/limitations in civil and/or tax law regarding foundations' asset management (only secure investments/bonds/investments with a certain return)? What, if any, types of investment are prohibited? Are there any limitations on mission-related investments?

There are no rules regarding any kind of shareholding by foundations. All foundation assets are managed by the governing 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 a certain amount (see Q13).

15. Are foundations legally allowed to allocate grant funds towards furthering their public-benefit purpose/programmes which (can) also generate income – impact investing? (recoverable grants; low interest loans; equities)

It depends. Foundations with public-benefit status 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 a loan, for example, to a 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).

16. Are there any limitations (in civil law/tax law) to political party related or general lobby/advocacy activities?

No. Exceptions are foundations with public-benefit status – they are not allowed to fund activities that are related to political parties and their election campaigns. Advocacy should not be carried out, except if it might be considered as supporting commercial activities (there might be a distinction between advocacy for, e.g., vulnerable groups or for businesses).

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

See Q8d and Q8f.

Generally, amendments of statutes can be made by the governing board if the statutes allow it.

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

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

- Annual financial report/financial accounts
- Annual activity report - only for foundations that apply dual entry accountancy (it is mandatory from certain turnover)
- Public-benefit/activity report - only for foundations with public benefit status
- Tax report/tax return
- Other reports e.g. on 1% schemes
- Reports on governance changes (e.g. new board members)
- Report on conflict of interest (self-dealing and conflict of interest breach cases)

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

Annual reports (financial and narrative) and public-benefit reports are submitted to the State Revenue Service (tax authority).

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

The State Revenue Service reviews the annual report. The public-benefit report is approved by a special committee under the State Revenue Service's structure, but includes representatives from various ministries and NGOs.

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, this is not mandatory. Annual reports are published on the website of the State Register of Enterprises, but public-benefit reports are published by the State Revenue Service.

e) Is external audit required by law for all foundations?

No.

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

No.

19. Supervision: Which authority, what measures?

a) What type of body is the supervisory authority? (multiple answers possible)

- A public administrative body
- A public independent body

- A combination of a governmental body and a court
- A court
- A public administrative body and an independent body
- A tax authority
- Other

b) Does the supervisory body review reports?

- Yes
- No

c) Are foundations subject to inspection?

- Yes
- No

d) Is approval from the authority required for certain decisions of the governing board?

- Yes, formal approval is needed
- Yes, needs just to be informed
- No

If yes, please specify which type of decisions:

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

- Yes
- No
- Can a government official be appointed to the governing board by a state authority, if so please mention:

f) 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 a 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.

20. When and how does a foundation dissolve?

The decision to dissolve a foundation is taken by the governing 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 (e.g., initiated by the State Revenue Service).

21. Is there a maximum that can be spent on office/administration costs in civil law and/or tax law? If yes, what is the amount?

Yes. Foundations with public-benefit status may use up to 25% of general donations to the foundation and up to 25% of economic activity income for administrative costs. Foundations can use an unlimited amount of other sources (e.g., project funding, operational grants). There is no limit in nominal euro value.

There are no limits for foundations without public-benefit status.

22. Does civil and/or tax law require a foundation to spend a certain percentage of its overall assets within a certain period of time (e.g. within the next financial year)? In particular, can a foundation accumulate these expenses over a period of time (and if so, what kind of authorisation is required to do so)?

No.

23. Under what conditions does the civil law in your country recognise a foreign foundation? Do they have to register? Does your law recognise the concept of trusts?

To conduct economic activities in Latvia, a foundation must be established as a foundation in Latvia or as a representative/agency of a foreign organisation (without rights of legal entity).

The law is unclear on the concept of trusts.

24. Does the law in your country allow a foundation to conduct (some or all) activities (grantmaking, operating, asset administration, fundraising) abroad? Is there any limitation?

No limitations are set in the Latvian laws concerning activities abroad. This topic has been raised in recent discussions, so there might be changes regarding foundations with public-benefit status.

25. Does the law in your country impose any restrictions on ability to receive donations from abroad? If so, please describe.

No, except “anti-money laundering and terrorism” regulations where one has to be ready to justify any income from a non-EU country.

26. Does the civil law in your country allow the transfer of the seat of a foundation (in the EU) and/or cross-border mergers?

The law does not address such cases.

II. Tax treatment of foundations

1. What are the requirements to receive tax exemptions?

- Pursuing public-benefit purposes
- Non-distribution constraint
- Being resident in the country
- Other

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 public funds (grants received from public bodies/state/municipality/etc.)?

It depends on each funding contract, but usually a report on outcomes and a financial report (including copies of accountancy documents) are required by the funder. There are no general templates and no reporting to tax authorities about use of public funds.

4. Is there an obligation to report to public authorities on donors and beneficiaries? If so, to which authority and what type of information?

Donors must be listed in the annual report to the State Revenue Service.

5. Is there a statutory definition of what a public-benefit purpose (charitable purpose) is in the civil law (foundation law, trust law) of your country? If yes, please give us the definition. If so, is the determining definition that subsequently links to tax benefits?

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.”

6. Is there a statutory definition of what a public-benefit purpose is in the tax law of your country? 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).

7. Please indicate whether the following purposes would or would not be accepted for tax privileges in your country (noting that the tax status often depends on additional requirements):

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 (human rights)			
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 (environment)		
Science, research and innovation	x			
Education and training	x			
European and international understanding (e.g. exchange programmes/ other activities aimed at building bridges between nations)			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		
Party political activity				x
Advocacy		x		
Advancement of religion				x
<i>Other – please list other purposes accepted in tax law for tax privileges in your country</i>				

8. Support of “the public at large”

- a) Do the activities of a foundation with public-benefit status for tax purposes generally have to benefit “the public at large”?

Yes, but this does not always imply large numbers.

- b) If yes, can a foundation with public-benefit status for tax purposes support a closed circle in a sense that beneficiaries can be identified based on legal or family affiliations?

Yes.

9. Non-distribution constraint

- a) Does a foundation with public-benefit status for tax purposes generally have to follow a “non-distribution constraint” which forbids any financial support of the foundation board, staff, etc.?

Yes.

- b) What happens with the foundation’s assets in case of dissolution - can the assets revert to private ownership or do they have to stay in the public-benefit sphere?

The statutes should define what happens in this case. However, assets cannot be distributed among founders, members of the board and other bodies, or their relatives. The law says that assets after dissolution may be transferred to a similar organisation.

10. “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)

Theoretically, no. Such insignificant gifts as postcards would not be controlled, however.

- c) 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? Please indicate which of the following types of expenditures would/would not be considered as “administration costs”:

See Q21 in section I: Foundations with public benefit status are limited to use up to 25% of spent general donations for administrative costs

- Personnel costs (staff salaries/payroll costs)
- Board remuneration
- Costs of external audit
- Other legal/accounting costs
- General office overheads (rent/mortgage payments, utilities, office materials, computers, telecommunications, postage)
- Insurance
- Publicity and promotion of the foundation (e.g. website, printed promotional materials) - except if some activities could be interpreted as promotion of values/awareness raising
- Asset administration costs
- In the case of an operating foundation – costs related to programmes/institutions run by the foundation
- Costs related to fundraising - If fundraising can be interpreted as means of promoting giving culture, then no. Otherwise – yes.

11. 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, their spouse and descendants.					x
The founder retains a beneficial reversionary interest in the capital of a property or other asset for their own continuing use.				x	
The gift consists only of 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 favour of the founder (or another member of their family) as tenant.				x	
A foundation distributes a (small) part of its income to the founder or their 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, their 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 their own continuing use.				x	
The gift consists only of 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 favour of the founder (or another member of their family) as tenant.				x	
A foundation distributes a (small) part of its income to the founder or their family.					x

12. Distributions and timely disbursement

- a) Are foundations allowed to spend down their endowment?

If the endowment is described and regulated by the statutes, spending down may be permitted in line with what the statutes prescribe. The law does not describe endowment as such.

- 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 **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 yes, 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 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 limits are set.

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

Example: Does the **civil law** of your country require the following 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 require the following 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				

13. Are activities abroad in another country compatible with the public-benefit tax status?

Yes. The law does not have any geographic restrictions.

14. Can public-benefit organisations with a tax-exempt status also support/give grants to for-profit organisations (such as a small green start-up)?

Generally, not, because public-benefit foundations are not allowed to use their income for commercial activities.

15. Corporate income tax treatment. How are the following types of income treated for corporate income tax purposes? Are they taxable or exempt?

Foundations are not subject to corporate income tax, so none of the items below are relevant to foundations in Latvia.

- a) Grants and donations
- b) Investment income (asset administration)
- Interest from fixed rate bonds
 - Equities
 - Income from leasing of a property that belongs to the foundation
- c) Economic activities (related/unrelated)
- Income from running a hospital/museum/opera
 - Income from producing/selling books (e.g. art books sold by a cultural foundation)
 - Income from running a bookshop inside a museum/opera run by the foundation
 - Income from running a café in the hospital/museum run by the foundation
 - Income from selling merchandise (activity not related to the pursuance of the public-benefit purpose)
 - Income from intellectual property (e.g. royalties and licence fees)

Extensive (very active or dominant over other activities and income sources) economic activities may be a reason to initiate examination of whether the foundation should be considered a non-profit organisation, or whether it should re-register as a company.

- d) Income deriving from grant expenditure towards public-benefit purpose/programme activities (such as loans, guarantees, equities)?
- e) Is major shareholding in a business undertaking considered as an economic activity and taxed accordingly?

Again, this could be a reason to initiate examination of whether the foundation should be considered a non-profit organisation, or whether it should re-register as a company.

16. Are capital gains subject to tax? If so, are they liable to corporate income tax or to a separate tax?

No, not for foundations.

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

Foundations are in the same position as other companies in regards to VAT.

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 specifically to public-benefit foundations.

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

No.

19. Are there taxes on the transfer/ sale of assets by foundations?

No.

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

Real estate tax. The same rules apply as for others.

Public-benefit foundations may apply for tax exemption if their real estate is used for public-benefit purposes.

21. Can a foreign foundation (EU and other) 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 locally-based public-benefit foundations, please refer to above but indicate which documents need to be provided and translated:

Most probably not. A new legal entity (association or foundation) must be set up in Latvia with its own statutes, accountancy etc. The statutes may be related to an international "mother-organisation" without any legal bindings.

- 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

22. Does your country have signed bi-lateral tax treaties, which provide for reciprocal tax treatment of public-benefit organisations? If so, with which countries?

N/A

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 foundations

1. Is there a system of tax credit or tax deduction or other mechanisms such as tax allocation systems or matching grants?

Individuals who donate to a public-benefit organisation can receive an income tax deduction when submitting their annual income declaration. 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?

Annual taxable income is reduced by the amount of donations. There is no minimum ceiling, but there is a maximum ceiling: The total sum of all deductions (health, education, life insurance and donations) may not exceed €600 per year.

- b) Which assets qualify for tax deductibility (e.g. cash, real estate, in kind or other)

Cash and physical assets (real estate, goods, products etc.) do qualify. Service is under debate: According to a technical reading of the law, it does not qualify.

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?

There are various options. In any of the following cases, there is no minimum ceiling:

- Option 1: Amount of donations can be reduced from taxable income, maximum ceiling of donations is 5% of previous year's profit.
- Option 2: Amount of donations can be reduced from taxable income, maximum ceiling of donations is 2% of total salaries paid in the previous year.
- Option 3: They can reduce tax on dividends by 75% of donated amounts, but not exceeding 20% of total tax on dividends.

Practically, since there is no corporate income tax on re-invested amounts, companies are not too interested in tax deductions on donations.

- b) Which assets qualify for tax deductibility? (e.g. cash, real estate, in kind, or other)

The same: Cash and physical assets (real estate, goods, products etc.) do qualify. Service is under debate: According to a technical reading of the law, it does not qualify.

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. However, the donor has to prove recipient's compatibility with Latvian public-benefit regulations.

5. Other frameworks such as percentage law systems, whereby the donating tax payer may assign part of the tax due to a public-benefit organisation?

No.

6. What are the requirements that the donor must fulfil and/or what is the information they must provide in order to claim tax benefits? What information must donors provide to their tax authority in order to 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, for instance to show that income was actually spent for public-benefit purposes)?

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

For individuals: The income declaration must be submitted with donations included. Payment documents must be added (photo, scanned or copies).

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 must donors to foreign-based organisations provide in order to receive tax incentives for their donation (e.g. statutes, annual financial report, documents providing evidence for certain tax law requirements, for instance to show that income was actually spent for public-benefit purposes)? Are translations of documents required?

Companies and individuals must include with their annual report/declaration documents that confirm the following:

- The recipient is resident of an EU/EEA country
- The recipient has equal/analogous status to public-benefit status in Latvia
- The recipient works in public-benefit areas according to Latvian law
- 75% of the gift has been used for public-benefit purposes

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

8. Do donors get tax incentives when donations are done via specific tools such as:

It does not matter how the gift was initiated, but document (proof of payment) is mandatory. Phone and street gifts may not qualify. Crowdfunding may qualify if payment is done via bank account and the recipient is a public-benefit organisation.

- Requesting money in public (street, door-to-door)
- Via TV and radio campaigns
- Via sms
- Crowdfunding

Do they have to follow any kind of particular process? If so, which one?

IV. Tax treatment of beneficiaries

(i.e. those receiving a grant or other benefit from a foundation)

1. Individuals: Are individual beneficiaries of grants required to pay taxes or are the grants tax exempt?

Individuals do not pay income tax on financial and material aid received from public-benefit organisations up to €1000 per year. An exception is aid for medical treatment: This is fully tax exempt if proofs of payments are held with the organisation.

Scholarships for education have separate regulations, and they can be tax-exempt if a foundation has gained special permission to pay scholarships.

2. Legal entities: Is there any legal/fiscal framework for beneficiaries conducting economic activities so that they can be eligible for foundation funding? Are there any limitations on the economic activities of the beneficiaries?

Non-profit organisations (associations and foundations) do not pay any taxes from grants that they receive from other organisations (including from other foundations).

Companies would be subject to regular corporate income tax.

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

No. Person just have to be ready that banks or state institutions may ask questions if transaction seems suspicious (in the context of money laundering and terrorism).

V. Gift and inheritance tax

There is no separate gift and inheritance tax. Legacies can be part of a person's income, and foundations again are not subject to the corporate income tax.

- 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 a certain state fee regarding inherited real estate.

- 2. What are the tax rates? Is there a preferential system for public-benefit organisations (PBOs)? Which PBOs 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 this threshold is also 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 the number of appropriate relatives (spouse and children, or parents if the person has no children). Each protected heir has rights for half of the legacy they 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? Any changes being discussed with regard to the free movement of trust structures resulting from the [Panayi Trust](#) and [Olsen and Others](#) cases?**

This issue is not widely discussed, since NGO issues are generally discussed in general terms only. Due to the requirements of the European Commission, deductions 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.

In addition, our legislation is rather open to receiving donations from abroad and giving donations abroad, so there is not too much need for such debates.

- 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)? Has it for example become more difficult to:**

- Set up a public-benefit foundation
- Obtain permission to transfer funds across borders
- If able to transfer of funds across borders, has the process become more burdensome administratively
- Open a new bank account
- Maintain a bank account - some organizations have faced closing of their account; most of organizations experience more complex questionnaires and interviews with bank etc.
- Fund certain activities
- Fund certain regions/countries
- Fund certain organisations (please explain the reason - foreign funding restriction?)
- Report to authorities/deal with administration
- Other

- 3. Does the national law consider foundations as obliged entities as defined by the Anti-Money Laundering Directive?**

- 4. Does the national law define/specify who is considered as a Beneficial Owner (BO) of a foundation?**

Yes, and it has been an issue, mostly because of low understanding of this term. The beneficial owner of the foundation by default is the governing board (all members), unless the foundation provides strong justification that such a designation is not applicable and a beneficial owner cannot be identified.

- 5. Does your country have a specific register for BO of legal entities/foundations or does the foundation/company/association register serve as a BO register?**

No, there is no separate register. The State Register of Enterprises collects information on beneficial owners.

6. Are there any other recent trends or developments affecting the legal and fiscal environment for public-benefit foundations in your country such as one or more of the following?

- a) Law revision in the pipeline
- b) Discussion about the role of supervisory authorities (civil law, charity regulator, tax authority) and collaboration among them? Decentralisation or centralisation of supervisory structures? Use of watchdog/rating agencies?
- c) Tendency towards more transparency requirements?
- d) Tendency towards more self-regulation? Self-regulation replacing hard law regulation?
- e) Tendency to use alternative forms to classic public-benefit foundations
- f) Other?

7. Public fundraising: Are there any specific laws that regulate fundraising and do they affect foundations?

No, fundraising is only partly regulated within the Law on Public Benefit Organizations.

VII. Further information

Useful contacts

Ansis Bērziņš, [Community Foundation Movement in Latvia](#), ansis.berzins@vnf.lv

Selected law texts online

- [Associations and Foundations](#)
- [Public Benefit Status](#)
- [Personal income tax](#)
- [Corporate income tax](#)

VIII.About

Philanthropy Advocacy

The Dafne and EFC joint advocacy project “Philanthropy Advocacy” acts as a monitoring, legal analysis and policy engagement hub for European philanthropy. Its main objective is to shape the national, European and international legislative environment by implementing the European advocacy roadmap for a Single Market for Philanthropy.

www.philanthropyadvocacy.eu

Donors and Foundations Networks in Europe (Dafne)

Dafne brings together 30 national associations from 28 countries across Europe, representing over 10,000 public-benefit foundations, big and small, who want to make a difference in society. We have created an alliance for collaboration across philanthropy networks in Europe to address big philanthropy questions of our time in a coordinated and effective manner. We lead, strengthen and build the field for the common good in Europe. We are involved in four key areas: advocacy, peer exchange, communications and research. Our work is needs-based and future-oriented. We value ideas over hierarchy and believe in a truly collaborative approach.

www.dafne-online.eu

European Foundation Centre (EFC)

As a leading platform for philanthropy in Europe, the EFC works to strengthen the sector and make the case for institutional philanthropy as a formidable means of effecting change. We believe institutional philanthropy has a unique, crucial and timely role to play in meeting the critical challenges societies face. Working closely with our members, a dynamic network of strategically-minded philanthropic organisations from more than 30 countries, we:

- Foster peer-learning by surfacing the expertise and experience within the sector
- Enhance collaboration by connecting people for exchange and joint action
- Advocate for favourable policy and regulatory environments for philanthropy
- Build a solid evidence base through knowledge and intelligence
- Raise the visibility of philanthropy’s value and impact

www.efc.be

**Donors and Foundations Networks in Europe AISBL (Dafne) and
European Foundation Centre AISBL (EFC)
2020**



This work is licensed under a Creative Commons Attribution -
Non Commercial No Derivatives 4.0 International License.

Quotation is subject to full identification of source. The named authors of this country profile bear all responsibility for the correctness and accuracy of the information provided. Dafne and EFC expressly disclaim any liability arising from the use of the information provided in this country profile.