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Legal Environment for Philanthropy in Europe

Russia

COUNTRY PROFILE

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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?**

The foundation is a non-profit organisation with no membership, established by citizens and (or) legal entities on the basis of voluntary property contributions and having charitable, cultural, educational and other social, socially valuable objectives (p. 1, Art. 123.17 of the Civil Code of the Russian Federation, part one dated 30.11.1994 N 51-FZ; hereinafter, the "Civil Code of the Russian Federation").

And more recently, a hereditary foundation has been added to the Civil Code of the Russian Federation, which is formed pursuant to a testament and administers hereditary property after the death of a testator indefinitely or within a given timeframe (Art. 123.20-1 of the Civil Code of the Russian Federation).

In accordance with p. 4, Art. 7 of the Federal Law dated 12.01.1996 N 7-FZ "On Non-profit Organisations" (hereinafter, the "Federal Law on Non-profit Organisations"), features of establishment and functioning of the following types of foundations may be set by federal laws:

- A charitable foundation shall be established and functions subject to the provisions of the Federal Law dated 11.08.1995 N 135-FZ "On Charitable Activities and Volunteering" (hereinafter, the "Federal Law on Charitable Activities").
- A general public foundation is subject to the provisions of the Federal Law dated 19.05.1995 N 82-FZ "On Public Associations" (hereinafter, the "Federal Law on Public Associations").
- A foundation of endowment is subject to the provisions of the Federal Law dated 30.12.2006 No. 275-FZ "On the Order of Formation and Use of Endowment of Non-profit Organisations" (hereinafter, the "Federal Law on Endowments").

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

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

- 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?**

The procedure for registration of foundations as well as all non-profit organisations is permissive in nature and is done through a process of adoption of a decision on state registration, or refusal of it, by the Ministry of Justice of the Russian Federation (hereinafter, the "Ministry of Justice").

- 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

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.

5. Are foundations required to register?

As all non-profit organisations, foundations are subject to state registration in accordance with the Federal Law dated August 8, 2001 N 129-FZ "On State Registration of Legal Entities and Individual Entrepreneurs" (hereinafter, the "Federal Law on Registration of Legal Entities").

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)

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

In accordance with Art. 5 of the Federal Law on Registration of Legal Entities, the Unified State Register of Legal Entities contains the following information and documents about the foundations: full and (if available) abbreviated name; form of incorporation; the address (location); information about the founders, 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?

The foundation is not required to maintain assets or any other specified asset level throughout its lifetime. Yes, spend-down foundations are allowed.

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
- 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 Civil Code of the Russian Federation and the Federal Law on Non-profit Organisations do not contain requirements regarding the personnel of the supreme collegial body of the foundation. As a rule, the statutes of the foundations provide for an odd number of members of the supreme collegial body of the foundation to avoid possible stalemates.

As with the number of members of the supreme collegial body of the foundation, the law also does not contain any requirements as to the procedure of appointment and dismissal of the members of the supreme collegial body of the foundation.

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

In this regard, the Civil Code of the Russian Federation and the Federal Law on Non-profit Organisations provide the freedom for the founders to choose to set or not to set the rights and duties of the members of the supreme collegial body of the foundation.

- 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 foundation refers to an organisation without membership. This is why the founders' participation in its activities and management is not mandatory.

- 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?

The founders of the foundation shall be entitled to provide in the statutes of their established foundation that only by their decision the foundation's statutes may be amended, and objectives of the foundation may be changed only by their decision (Art. 123.20 of the Civil Code of the Russian Federation).

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

The right of citizens to be informed of activities of foundations is related to the responsibility of the foundations, established in Art. 123.17 of the Civil Code of the Russian Federation, to annually publish reports on the use of their assets.

- 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?

In accordance with Art. 27 of the Federal Law on Non-profit Organisations, if the stakeholder has an interest in the transaction, or is a party to which the foundation is or intends to be, or in the case of other conflict of interests between the said person and the foundation in respect of existing or proposed transactions, the following rules apply:

- The stakeholder shall indicate its interest to the supreme collegial body of the foundation or its supervisory body until a decision on the conclusion of the transaction.
- The transaction shall be approved by the supreme collegial body of the foundation or its supervisory body.

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

As a rule, the responsibility of the sole and (or) collegial executive bodies of the foundation include the following issues: operational management of the foundation, hiring and firing employees, carrying out civil transactions and other activities.

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?

A member of the supreme collegial body is obliged to act in the interests of the foundation as a non-profit organisation reasonably and in good faith and is liable for losses incurred through their fault in regards to the foundation.

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

The foundation as a non-profit organisation is not entitled to remunerate the members of its supreme collegial body for performance of their assigned functions, except for reimbursement of expenses directly related to participation in this body (p. 5 of Art. 29 of the Federal Law on Non-profit Organisations).

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?

The other members of the board, the founder/s as well as the general public can claim for breaches.

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?

As a rule, such a person is the sole executive body of the foundation, for example, its director, chairman, etc.

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

The foundation as a non-profit organisation can perform income-generating activities, if this is provided for in its statutes, only insofar as it serves the purposes for which it was established, and if it is consistent with such purposes (part 4, Art. 50 of the Civil Code of the Russian Federation).

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?

There is no legal/fiscal framework for grantmakers to be able to fund legal entities that are conducting economic activities in addition to their public-utility activities under Russian civil legislation.

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?

Yes, the Russian civil law allows foundations to be major shareholders of companies.

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?

The only rule is that the investments serve the purposes for which the foundation was established, and if this is consistent with such purposes (part 4, Art. 50 of the Civil Code of the Russian Federation).

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)

No, foundations are not legally allowed to allocate grant funds towards furthering their public-benefit purpose/programmes which (can) also generate income. This refers to impact investing such as recoverable grants, low interest loans, and equities.

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

Foundations can be established only for public-benefit purposes. For some foundations, such as charities, support for political parties, movements, groups, and campaigns will not be recognised as charitable activities.

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

As a general rule, the foundation's statutes may be amended by the supreme collegial body of the foundation, unless the statutes include a provision that they can or must be amended by the founder.

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
- Public-benefit/activity report
- 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)?

Yes, all of the reports must be submitted to supervisory authorities: the Ministry of Justice, the tax authority or state statistics authorities.

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

Yes, reports submitted by the foundations to the Ministry of Justice, tax authorities and other bodies are carefully checked by these bodies.

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)?

Without exception, all foundations shall annually publish on the internet or provide for publication to the media a report on their activities in line with the data provided to the Ministry of Justice or its territorial body (Art. 32 of the Federal Law on Non-profit Organisations).

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

Yes, the foundation is subject to an annual statutory audit in accordance with Art. 5 of the Federal Law dated 30.12.2008 N 307-FZ "On Auditing".

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

Audit companies or auditors shall undertake audits for foundations. The audit activities are carried out according to international auditing standards.

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?

The Ministry of Justice may issue a written warning to the foundation in case of violation of the legislation of the Russian Federation, or if the actions committed by the foundation are contrary to the purposes provided in its statutes. Repeated failure of the foundation to submit reports (information) about its activities to the Ministry of Justice is a sufficient basis for the Ministry of Justice to send a court action to liquidate the foundation.

20. When and how does a foundation dissolve?

The foundation may be dissolved only on the basis of a court decision taken at the request of interested persons, if:

- 1) The foundation's assets are not sufficient for the implementation of its objectives and the probability of obtaining the necessary assets is unrealistic.
- 2) The objectives of the foundation cannot be achieved, and the necessary changes to the objectives of the foundation cannot be made.
- 3) The foundation in its activities evades the objectives provided for by the charter.
- 4) In other cases provided for by law.

In the event of dissolution of the foundation, its property remaining after the satisfaction of creditors' claims is directed to the purposes specified in the charter of the foundation, except for cases where the law provides for the return of such property to the founders of the foundation.

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?

A charitable foundation does not have the right to use more than 20% of the financial resources spent by this foundation for a financial year for remuneration of administrative and managerial personnel.

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)?

Unless otherwise established by a donor or charitable programme, at least 80% of the charitable donation in cash must be used for charitable purposes within a year of the foundation receiving the charitable foundation.

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?

In Russia, foreign foundations, as well as all foreign non-profit non-governmental organisations are subject to the same laws and rules as domestic organisations (Art. 2 of the Civil Code of the Russian Federation).

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?

Yes, Russian civil law allows foundations to conduct their activities abroad with one limitation: The objectives of the activities abroad shall be connected with the interests of the Russian Federation.

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

Foundations that participate in political activities carried out in the territory of the Russian Federation are prohibited from receiving monetary and other assets from US citizens and organisations on a gratuitous basis (Federal Law of the Russian Federation No. 272-FZ, "On Measures Affecting Persons Related to Violations of Basic Human Rights and Freedoms of Citizens of the Russian Federation," of December 28, 2012).

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?

No, the Russian civil code does not allow the transfer of the seat of a foundation (in the EU), nor does it allow cross-border mergers.

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?)

Adopting the decision by the Ministry of Justice of the foundation registration as a non-profit organisation is a confirmation that the newly created foundation is endowed with tax privileges provided by law for non-profit organisations.

3. Is specific reporting required for the use of public funds (grants received from public bodies/state/municipality/etc.)?

Generally, reporting on the use of budget funds is provided under negotiated agreements.

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

No, there is no an obligation to report on donors and beneficiaries.

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?

Neither Russian civil law nor tax law has a definition of a "public-benefit purpose".

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.

The Tax Code of the Russian Federation does not contain a definition of a "public-benefit purpose".

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	X			

prescribed form of discrimination				
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 (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>	Support of volunteering; disaster relief; free legal aid; support of social advertising; prevention of juvenile delinquency and etc.			

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”?

No, they do not.

- 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?

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.?

No, it does not.

- 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?

In case of dissolution the assets shall be used for the purposes specified in the statutes of the foundation.

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**?

No, remuneration of board members is not allowed in Russian law without any limitations.

- 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, **tax law** does not allow a donor/funder to receive some type of benefit in return for a donation.

- 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”:

- 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)
- Asset administration costs
- In the case of an operating foundation – costs related to programmes/institutions run by the foundation
- Costs related to fundraising

No, there is not a maximum amount that can be spent on office/administration costs in Russian civil law and in Russian tax law. The definition of “administration costs” is determined by the state authorities. It is considered as a good guideline in the Russian non-profit sector to spend about 10% of the annual budget on administration costs.

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?

Yes, the foundations are allowed to spend down their endowment.

- 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, they are allowed to be set up for a limited period of time. As required by law, the duration of the foundation shall be provided in its statutes (p. 2 Art. 3 of the Federal Law on Non-profit Organisations).

- 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)?

Certain rules on donation spending are established for charitable foundations as well as for endowment foundations.

If the donor or the charitable programme does not establish otherwise, not less than 80% of charitable donations in cash and in kind shall be used for charitable purposes in the year following the receipt of this donation by a charitable foundation (p. 4, Art. 16 of the Federal Law on Charitable Activities).

The amount of income used from trust management of the assets constituting endowment cannot be less than 25% of such income within two consecutive years (p. 5 Art. 13 of the Federal Law on Endowments).

- 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”?

Generally no.

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?

According to Russian legislation the foundation's activity abroad has no effect on its tax status.

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)?

The Russian Tax Code provides an opportunity to make grants to for-profit organisations. However, in practice, this is not used because of the possible negative tax consequences.

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

- a) Grants and donations – exempt
- b) Investment income (asset administration) - taxable
- Interest from fixed rate bonds
 - Equities
 - Income from leasing of a property that belongs to the foundation

- c) Economic activities (related/unrelated) – taxable
- 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)
- d) Income deriving from grant expenditure towards public-benefit purpose/programme activities (such as loans, guarantees, equities)?

Taxable.

- e) Is major shareholding in a business undertaking considered as an economic activity and taxed accordingly?

Taxable.

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

Yes, capital gains are subject to tax as a corporate income tax.

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

Yes, the foundation may impose VAT deduction but only subject to income-generating activity and application of the general taxation system.

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

There is no capital tax in Russia. But the value of assets is subject to property tax.

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

The transfer of assets by foundations will not be subject to income tax if the transfer of assets is in the form of donations or grants.

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

In the presence of taxation objects, the foundation shall pay the following taxes: personal income tax (act as an agent); contributions to state non-budgetary funds; state duty; motor vehicle tax; corporate property tax; land tax.

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:

Yes, foreign foundations can get the same tax benefits as domestic foundations.

- 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?

No, the Russian Federation has not signed bi-lateral tax treaties that provide for reciprocal tax treatment of public-benefit organisations.

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?

Yes, as a general rule, the tax is deducted from the source of payment; however, the tax agreements concluded shall be taken into account to avoid double taxation.

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?

In Russia, tax preferences for donors are provided only in the form of tax deductions.

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?

Tax deductions are provided in the amount of actual expenses, but not more than 25% of the amount of income received during the calendar year. The remainder is subject to taxation (p. 1, Art. 217 of the Tax Code of the Russian Federation).

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

Only donations made in cash, real estate, or in kind.

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?

In general, the law does not provide corporate donors with any tax relief in respect of donations made in payment of income tax, with the exception of some deductions in connection with the coronavirus. However, there are tax benefits for paying value added tax for corporate donors.

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

For the purposes of exemption from value added tax, such assets are cash, fixed assets, intangible assets, immovable property, other property, as well as goods, work and services.

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

The practice of providing tax deductions to donors who have made donations to foreign non-profit organisations is still undeveloped.

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?

The regions of the Russian Federation have the right to reduce the rate of income tax for certain categories of taxpayer, for example, for charity organisations, but not to a rate lower than 13.5 percent (Income tax is 20%, with 3% going to the federal budget and 17% going to the regional budget) (p. 1, Art. 284 of the Tax Code of the Russian Federation).

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)?

To receive a tax deduction, individual donors shall make an application and, together with the tax return and copies of documents confirming donations made, submit this to the tax office at the place of residence (subp. 2 p. 1 Art. 219 and Art. 229 of the Tax Code of the Russian Federation).

- 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?**

It is not specifically regulated by law. In practice, such cases are not known.

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

- 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?

Yes, they have to follow particular processes, for instance, requesting money in public requires the implementation of certain rules such as the need to conclude a contract or compliance with the deadline for opening the donation box and other similar rules. These are no tax incentives when donations are done via the above mentioned tools.

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?

In accordance with Article 217 of the Russian Tax Code, grants are not taxed if grants (gratuitous assistance) are provided to support science and education, culture and the arts in the Russian Federation by international, foreign and (or) Russian organisations according to the lists of such organisations approved by the Government of the Russian Federation.

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 are the only type of recipient of foundation support that are not subject to income tax.

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

Yes, a beneficiary receiving funding from abroad must inform the Ministry of Justice as part of their submitted reports.

V. Gift and inheritance 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, gift and inheritance tax/transfer tax does not exist in the Russian tax system.

- 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?**

Incomes in the form of donations and inheritance are recognised in non-profit organisations as non-taxable and are not taken into account when determining the tax base for income tax.

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

Incomes in the form of donations and inheritance are recognised in non-profit organisations as fully non-taxable.

- 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?**

No, donations or inheritance are at the full disposal of non-profit organisations, including foundations.

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

Russian tax legislation does not provide special procedures for tax exemption for inheritance or donations for non-resident public-benefit foundations.

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?

N/A

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
- 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?

N/A

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

No, the national law does not define/specify who is considered as a Beneficial Owner (BO) of a foundation.

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?

The foundation/company/association register serves as a BO register in the Russian Federation.

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?

There are specific laws that regulate fundraising in Russia. For example, laws that regulate usage of donation collection boxes or online platforms.

VII. Further information

Useful contacts

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Selected bibliography

- Anastasia Kumaritova, Daria Miloslavskaya, Natalia Bourjaily (2019). Nonprofit Law in Russia (<https://www.cof.org/content/nonprofit-law-russia>).

Selected law texts online

- **Consultant Plus** (<http://www.consultant.ru/sys/english/>), Legal reference system, analytical legal materials, monitoring of legislation, and other legal information.

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)
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