

2020

Legal Environment for Philanthropy in Europe

Norway

COUNTRY PROFILE

By the Norwegian Gaming and
Foundations Authority, and the
Norwegian Tax Administration

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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 Norwegian foundation legislation is set out in Act no. 59 of 15 June 2001 relating to Foundations (the Foundations Act). The current legislation is only the second Act to regulate foundations in the history of Norway. The Act of 2001 entered into force on 1 January 2005. An unofficial translation of the Act may be found [here](#).

The Norwegian Government is working on revising the Norwegian foundations legislation. On 21 October 2016, a public committee appointed by the government presented an Official Norwegian Report (NOU 2016:21) proposing new foundations legislation. The Norwegian Government is still working on the proposal and it is unsure when the final proposal will be presented, but it is expected in 2021 or 2022. All answers in this profile are based on the current legislation.

The definition of a foundation in section 2, first sentence of the Foundations Act consists of four components: There must be a "capital asset" and there must be a "legal act" (testament, endowment or other lawful act), and the legal act must allow "independent" disposal of the capital asset for a "specific purpose" for a certain duration.

The key element of the definition of a foundation is the so-called "requirement of independence", providing that the object of economic value has to be placed at the independent disposal of the relevant purpose. The consequence of this is that no physical person, legal entity or interest outside the foundation is allowed to have any legal rights or powers to influence the foundation and its administration.

The legislation distinguishes between non-commercial foundations and commercial foundations. A commercial foundation is defined in section 4 of the Foundations Act. Non-commercial foundations are foundations other than commercial foundations.

Foundations with a family purpose are accepted.

A specific type of foundation is the financial- and savings bank foundation, which can be established as a result of mergers and divisions of financial undertakings that are not organised as limited liability companies or public limited companies. Establishment of a financial- and savings bank foundation requires a permit and is under supervision by the Financial Supervisory Authority of Norway (Finanstilsynet). Financial- and savings bank foundations are subject to specific provisions in the Financial Undertakings Act, but the rules in The Foundation Act also apply. Financial- and savings bank foundations are registered in the Foundation Register. This profile does not comment any further on financial- and savings bank foundations.

Certain self-owned assets are exempt from the foundation act:

- Churches and cemeteries and other property owned by the parish or a religious community
- Pension funds under the supervision of the Financial Supervisory Authority of Norway
- Savings banks

Norwegian law also recognises non-profit associations, but there is currently no specific civil law for non-profit organisations. In 2020, the Norwegian Government appointed a committee to draft an act for organisations.

2. What purposes can foundations legally pursue?¹

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

Foundations in Norway can pursue any legal purpose or purposes. The purpose is defined by the founder. Additionally, it should be possible to fulfil the purpose in a practical sense in order for it to be accepted.

The condition in section 2 of the Foundations Act, stating that the founder must specify a certain purpose, is a condition of validity in the sense that a foundation (as a legal entity) cannot be regarded as having been established until a specific purpose has been stated.

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 founder must prepare a **founding document**, which, as a minimum, must state the following:

- Purpose of the foundation
- Which assets are to be used as the founding capital
- Composition of the board, unless the composition of the foundation's first board is regulated by the statutes
- Any special rights to be granted to the founder or other persons in connection with the establishment of the foundation

The founding document must also contain the foundation's statutes. The founding document must be dated and signed by the founder. If a foundation is established without the founder having prepared a founding document that meets the conditions of the first paragraph, the board must draw up the founding document, or supplement the foundation deed with any information that may be missing.

A foundation must have **statutes**, which must, as a minimum, state the following:

- Name of the foundation
- Purpose of the foundation
- Number of or the minimum and maximum number of board members and how the board is to be elected
- If the foundation has other bodies than the board, the statutes must state which bodies these are, how they are to be elected and their authorities and duties
- Amount of the founding capital

If the legal act on which the foundation is founded does not include statutes that satisfy the requirements of the first and second paragraphs, the foundation's board must draw up statutes or amend the statutes as required.

Within three months of the establishment of the foundation, the board shall notify the Foundation Authority for registration in the Foundations Register. The foundation cannot be registered unless a foundation deed has been drawn up and the entire founding capital has been placed at the foundation's independent disposal.

Registration of a foundation requires the following documentation:

- A certified copy of the founding document, including the statutes
- Declarations from the auditor and board member(s) that they accept their appointment

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.

- A declaration from the auditor that the entire founding capital has been placed at the foundation's disposal
- A statement from the auditor that the value of the assets corresponds at least to the amount of founding capital stated in the statutes if the founding capital consists of assets other than cash
- An opening balance sheet for the foundation. The opening balance sheet must be drawn up in accordance with the provisions of the Accounting Act. The auditor shall provide a declaration that the balance sheet has been prepared in accordance with these provisions. The opening balance sheet and the auditor's declaration must be dated no earlier than four weeks prior to notification in the Foundations Register.

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

State approval is not necessary for setting up a foundation, however foundations are required to register.

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)

Yes. Within three months of its establishment, the foundation must register in the Foundations Register at national level. Foundations must also register in the Register of Legal Entities (company register) and, if conducting business, the Register of Business Enterprises, both at [Brønnøysund Register Centre](#).

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

The following information is kept in the Foundations Register:

- The date of establishment of the foundation and the name of the founder
- The foundation's address (registered address, alternatively the postal address)
- Members of the foundation's board, the name of its chair and any deputy members and observers on the board
- The name of the general manager of the foundation, if any
- The name of the auditor, the auditor's registered address and organisation number
- The name of the accountant, if any, and the accountant's address and organisation number
- Statutes of the foundation
- The name of the business manager, if the foundation has one
- Founding capital
- Any supplementary capital

The register must also contain the national identification numbers and the addresses of board members, deputy members and observers, and the general manager. If another foundation is the board, then the name and organisation number must be registered.

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

Yes. Publicly available electronically at <https://lottstift.no/stiftelsesregisteret/vedtektssok>

6. Is a minimum founding capital/endowment required?

- No
- Yes, amount:

Yes. Non-commercial foundations must have founding capital of at least NOK 100,000 (~ €10,000). Commercial foundations must have a founding capital of at least NOK 200,000 (~ €20,000). The Foundation Authority may make exceptions upon discretion.

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

As a general rule, the foundation's capital shall be adequately managed, ensuring that sufficient consideration is at all times given to the security of the capital and the opportunities for assuring a satisfactory return in order to achieve the foundation's object. The statutes may specify other requirements both for the assets in general and for specific assets.

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

Foundations are not required to have a supervisory board. With the exception of certain types of commercial foundations, where a general manager is mandatory, the board is the only body that is mandatory pursuant to the Foundations Act.

Foundations may opt to have a supervisory board, which must be regulated in the statutes. Other bodies than the mandatory board may only have the following powers:

- To decide the amount of remuneration to be paid to board members
- To monitor the foundation's activities
- To issue statements relating to the annual report and accounts
- To initiate investigations
- To appoint the foundation's auditor
- To decide to convert the foundation following a proposal from the board
- To issue statements to the board or other bodies of the foundation

- 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?

Board members requirements:

Foundations with a founding capital of NOK 3,000,000 (~ €300.000) or more must have a board consisting of at least three members.

Legal entities cannot be board members. The same applies to persons who are minors and persons who are disqualified due to certain actions leading to a bankruptcy.

At least one half of the board's members must reside in Norway, with the exception, however, of citizens of states that are parties to the EEA Agreement, when they reside in such a state. Following Brexit, the Norwegian government is working on a law proposal also excepting board members who are citizens of United Kingdom or Northern Ireland who are residing in those states.

Any person, and its related parties, who has furnished capital assets included in the foundation's founding capital cannot be the sole member of the board.

When the State, county administration or municipality has a right to appoint all or parts of a foundation's board, then specific rules regarding gender equality apply.

Rules for the election, appointment and removal of board members:

The election of board members must be regulated in the statutes. The statutes may give anyone the power to elect and remove board members (removal only on the same terms as the Foundation Authority, see below).

In cases where a foundation does not have a qualified board in accordance with the law and statutes, the Foundation Authority can appoint board members.

The Foundation Authority can remove board members who significantly neglect their duties, clearly prove to be unsuitable, or who do not satisfy the legal requirements for being a board member.

Unless otherwise provided for in the foundation's statutes, board members serve for a term of four years. Board members must remain in office until new members are elected, even if their terms of office have expired.

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

Duties of board members:

The board is responsible for the management of the foundation. The board must ensure that the purpose of the foundation is fulfilled and that distributions are made in accordance with the statutes. The board must ensure that the accounts and asset management are subject to adequate control.

A board member is required to act responsibly based on the requirements and expectations that can reasonably be demanded from the office as a board member.

Rights of board members:

Board members are entitled to appropriate notification of board meetings and other events with the required deadline. Board members may demand that the board consider specific matters.

The board normally meets physically unless the chair of the board finds that the business before the board can be dealt with in writing or in another adequate manner. Board members may, however, demand a physical meeting.

Minutes are to be taken of the board's proceedings. If a member of the board disagrees with a board decision, they may demand that their opinion be recorded in the minutes. Board members participating in a board meeting must sign the minutes. Due to the Covid-19 situation, minutes may be signed electronically. Currently, this is a temporary amendment of the law.

The Foundations Act does not give the board members any entitlement to receive remuneration, but it is allowed. Such remuneration, if any, is dependent on the foundation's statutes or a contract and must be proportionate to the work and responsibility that the office or the position involves.

- 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 founder cannot have the power to decide alteration to/amendments of the statutes of the foundation. The founder is, however, entitled to apply to the Foundation Authority for a decision on alteration of the foundation pursuant to the Foundation Authority's authority of alteration.

As general rule, the founder has the right to comment on any proposed alteration of the foundation.

The Foundations Act bans distributions and loans to the founder or the founder's closely related parties.

- 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 statutes may grant the board, or any other body except the founder, the power to amend the statutes (decide alteration) and the purpose of the foundation. All changes to the statutes must be approved by the Foundation Authority. See question 17 for more details on alteration/amending the statutes.

The founder cannot have the power to change the statutes, but the founder has the right to review and comment on the proposed changes.

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

Whether the third parties have any rights is dependent on the statutes in each individual case. As a general rule, they do not.

When the State, county administration or municipality has a right to appoint the majority of a foundation's board, third parties will as a general rule have right of information.

- 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?

As a general rule, board members or the general manager must not participate in proceedings or decisions concerning matters that are of such great importance to her/him or to her/his closely related parties that she/he must be deemed to have a prominent personal or financial interest in the matter.

A board member or a general manager cannot participate in proceedings or decisions either if she or he holds a position or an office in another legal entity that has a corresponding prominent interest in the matter.

The disqualification rules apply both to the consideration and decision of matters. When the provision mentions "consideration" in particular, this entails, for example, that a disqualified board member is not only prohibited from participating in the actual voting on a board matter, but that the member must also withdraw from the preceding consideration of the matter.

The disqualification rule applies to any matters that are considered by the board, and not just matters that have immediate legal significance such as entering into a contract or the institution of legal proceedings. The disqualification rule also applies to distributions, alteration of the foundation's activities and other matters where a board member or general manager has a relevant special interest.

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

The general manager is responsible for the day-to-day management of the foundation's activities and must comply with the guidelines and instructions issued by the board. The day-to-day management does not include matters of an extraordinary nature or great importance in relation to the foundation's situation.

Employees can participate in decision-making in the foundation within the scope of their authority.

- 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?**

Board members are required to exercise general diligence e.g. responsible management of the foundation. There is also a general duty of loyalty to the interests of the foundation. No distinction is made between paid and unpaid board members.

The Foundation Authority may file a claim against the board's members on behalf of the foundation. Apart from this rule, there are no specific rules regarding who can bring a complaint against breaches of duties.

- 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 board represents the foundation externally.

The board may authorise certain board members or the general manager to represent the foundation externally, either jointly or severally, unless the statutes preclude the assignment of such authority.

The general manager's authority to represent the foundation externally is set out in legislation. The general manager may represent the foundation in day-to-day management of the foundation's activities. The day-to-day management does not include matters of an extraordinary nature or great importance in relation to the foundation's situation.

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

Both non-commercial foundations and commercial foundations may engage in and conduct economic activities within the scope of the foundation's purpose.

When a foundation in accordance with the definition in section 4 of the Foundations Act is a commercial foundation, it is assumed that the foundation is directly or indirectly engaged in activities of a commercial nature (sale of goods or services of economic value) and that the purpose of the foundation is commercial activity, or it actually conducts commercial activities or has a controlling influence over commercial activities outside the foundation on the basis of a contract or as the owner of shares or interests.

A non-commercial foundation can engage in activities of an economic nature without being characterised as commercial, provided it does not fall under the Foundations Act's definition of a commercial foundation.

The Foundations Act applies both to non-commercial and commercial foundations, but certain rules apply only to the commercial foundations.

- 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 framework within the foundation law with regard to foundations conducting economic activities in addition to their public-utility activities. However, entities conducting public-utility activities may be subject to different types of frameworks, both statutory (procurement regulations) and contractual through, for example, tenders.

General fiscal framework applies, see section II.

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?

Foundations are allowed to be major shareholders in companies. The legislation does not set out any limitation with regard to voting rights.

Foundations that, as a result of an agreement, or as shareholders have a controlling interest in a business enterprise outside the foundation itself, are considered as commercial foundations.

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 framework for the freedom and duties of the board with regard to asset management is regulated in the Foundations Act section 18. Instead of prescribing rigid rules for the investment duties, the legislator has chosen to formulate a "responsibility standard", which seeks to ensure that the capital "...shall be adequately managed, ensuring that sufficient consideration is at all times given to the security of the capital and the opportunities for assuring a satisfactory return in order to achieve the foundation's purpose".

It is the board that has the ultimate responsibility for ensuring that the foundation's assets are adequately managed.

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)

Yes. A foundation can stipulate terms for loans (low interest rates), loan guarantees or share subscriptions or purchases (non-profit limited companies) or for the rental of real property and buildings (low rent), which generate income for the foundation for distributions within the purpose of the foundation. These types of loan, share purchase or rental are also to be regarded as legal distributions when they take place in accordance with the purpose of the foundation.

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

There is no framework within the foundation law with regard to political party related or general lobby/advocacy activities.

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

A foundation is unalterable in principle. The founder normally requires that the foundation and the provisions that have been stipulated for the foundation will endure for the foreseeable future. Chapter 6 of the Foundations Act provides rules for the alteration of foundations, including amendment of the statutes and the purpose.

The fundamental condition for alteration is that there has been a "change in the circumstances" in relation to one of the provisions in the establishment of the foundation or the statutes.

Provisions that concern the purpose of the foundation, or those to which it must be assumed that great importance was ascribed when the foundation was established, can be altered when a change in the circumstances entails that the provision can no longer be complied with, has become clearly pointless, obviously unfortunate or evidently unreasonable.

Provisions that do not concern the purpose of the foundation, or which must be assumed not to have been ascribed great importance when the foundation was established, may be altered when the provision proves to be inappropriate or inexpedient.

Amendment of the statutes must be adapted as closely as possible to the original (proportionality).

In addition, the administrative rules stipulated in the statutes must be followed, such as the authority to make decisions, voting rules, etc.

Before an alteration decision is made, a statement must be obtained from the founder or the founder's relatives, other closely related parties, or others who will be affected by the alteration.

Unless otherwise stipulated in the statutes, it is the Foundation Authority that has the authority to make alterations, and an application must then be submitted to the Foundation Authority to amend the statutes. In instances where parties other than the Foundation Authority have the authority to make alterations, the decision must be reported to the Foundation Authority for verification. The Foundation Authority's verification of the alteration decision is strictly limited to a legality verification of whether the decision is in accordance with the Foundations Act and the foundation's statutes. The alteration decision is not valid until it has been approved by the Foundation Authority.

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): New board members must be registered in the company register (Enhetsregisteret)
- 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 financial reports and financial accounts must be submitted to the Register of Company Accounts (Regnskapsregisteret).

Tax report/tax return must be submitted to the Tax Authorities (Skatteetaten), unless the foundation is tax exempt.

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

The Register of Company Accounts verifies that the accounts have been submitted to the Register of Company Accounts and has the authority to impose a late filing penalty for a period of up to 26 weeks after the latest deadline when the accounts should have been submitted. The Register of Company Accounts does not verify the accounts.

An external auditor verifies the accounts in relation to the purpose, statutes and whether the accounts provide a true and fair view.

The tax authorities may control taxable foundations with respect to the tax legislation.

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. However financial reports, financial accounts and company information are made publicly available by the Register of Company Accounts (Regnskapsregisteret).

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

Yes.

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

Audits must be undertaken by a State Authorised Public Auditor.

There is an exception if one or more county or municipal authorities are entitled to elect or appoint a majority of the board members. The county or municipal auditor may then be appointed as the foundation's auditor. The same applies to when the foundation's activities are essentially based on grants or appropriations from the county or municipal authorities.

Audits are performed based on the general auditing standard, taking into account the Norwegian Institute of Public Accountants' publication "Auditor's Statement on the Management and Distributions in the Auditor's Report for Foundations".

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

In short, the Foundation Authority is a public administrative body. However, there are some independent features. The Ministry of Culture may issue general orders, but not instruct in individual cases. All decisions made by the Foundations Authority can be appealed to the Foundation Complaints Board.

b) Does the supervisory body review reports?

- Yes
- No, foundations do not submit any standard reports to the Foundation Authority.

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:

Unless otherwise stipulated in the statutes, it is the Foundation Authority that has the authority to make alterations, and an application must then be submitted to the Foundation Authority to amend the statutes. In instances where parties other than the Foundation Authority have the authority to make alterations, the decision must be reported to the Foundation Authority for verification.

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:

The statutes of a foundation may set out that government officials should be appointed to the governing board by a state authority.

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

After an assessment of the foundation's processes and actions, the Norwegian Foundation Authority may find that these are in accordance with or not in accordance with current requirements for the foundation.

Reactions can be:

- Guidance
- Criticism and advice on improved measures for compliance
- Contact with other public supervisory bodies or reporting to police
- Formal decisions, such as:
 - o Initiating investigations
 - o Dismissing board members
 - o Appointing board members
 - o Dismissing the auditor
 - o Reducing any remuneration to board members and the general manager that is unreasonably high
- File claims for damages/compensation on behalf of the foundation

20. When and how does a foundation dissolve?

See question 17 with regard to conditions for altering a foundation. These conditions also apply to dissolution of a foundation.

Unless otherwise stipulated in the statutes, it is the Foundation Authority that has the authority to make alterations, and a dissolution application must then be submitted to the Foundation Authority. In instances where parties other than the Foundation Authority have the authority to make alterations, the decision must be reported to the Foundation Authority for verification. The Foundation Authority's verification of the alteration decision is strictly limited to a legality verification of whether the decision is in accordance with the Foundations Act and the foundation's statutes. This legality verification also includes verification that the distribution of the remaining assets after the creditors have been paid is to a legal purpose. The alteration decision is not valid until it has been approved by the Foundation Authority.

Upon dissolution, the capital that remains after the creditors' claims have been paid must be used in a manner that is in accordance with the foundation's purpose or a related purpose. If this is not possible, then the capital must be used for a non-profit purpose instead.

When the conditions for dissolution have been met, the Foundation Authority must appoint a liquidation board that will take the place of the board and any general manager. If necessary, the Foundation Authority will announce the dissolution decision with a deadline of two months for the creditors to report their claims to the liquidation board. The most important task of the liquidation board is to ensure that the creditors' claims are paid, and that the remaining assets are distributed in accordance with an approved purpose. Upon completion of the distributions, the liquidation board must send audited liquidation accounts to the Foundation Authority, which must approve the accounts and register the foundation as having been dissolved by deleting it from the Foundations Register. Not until the foundation has been deleted from the Foundations Register does it cease to exist as a legal entity.

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?

Section 40 of the Foundations Act sets out that remuneration of board members, the general manager or other leading employees of a foundation shall be proportionate related to the work and responsibility that the office or the position involves.

Generally, the management of the foundation must be reasonable and sound, but there are no explicit limits on office/administration costs.

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 the statutes state otherwise, accumulation would be within the discretion of the board, provided it has a reasonable, responsible explanation.

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?

Foreign foundations are recognised.

Norwegian law does not recognise 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?

There are no specific limitations with regard to such activities in Norwegian foundation law.

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

There are no specific limitations with regard to receiving donations from abroad in Norwegian foundation law.

Other frameworks, for example the faith society act (trossamfunnsloven), may set certain conditions.

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 Norwegian Foundation law, and its rules regarding mergers, only applies to Norwegian foundations.

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

Norway exempts from income taxation any foundation that does not have a commercial (a for-profit) purpose as regulated in the Taxation Act Section 2-32. The tax exemption is not limited to a specified group of organisational structures, such as associations or foundations. Limited liability companies may also satisfy the requirements. This provision does not stipulate the need for any charitable or benevolent purpose for a foundation to be exempt from tax.

The assessment of whether or not a foundation has a commercial purpose will be determined following a specific overall assessment of several factors. The three main factors are the statutory purpose, the actual activities engaged in and the structure of the institution. A key consideration is whether the foundation is aiming to accrue financial benefits for itself or others. If the foundation has subsidiaries, the activities of the subsidiaries might also be taken into account in the assessment. If the foundation has a number of purposes, the main purpose will be decisive. The main purpose is the purpose that accounts for more than half of the activities, often assessed based on turnover.

An otherwise tax-exempt foundation will still be tax liable for any economic activities carried out that do not realise (i.e. unrelated economic activity) its non-commercial purpose(s). For some foundations, it will therefore be necessary to determine which income is covered by the tax exemption and which income is taxable as unrelated economic activity. For example, when a student association lets bedsits to students on a non-profit basis, the rental income will be tax-free in its entirety. This income realises the non-commercial purpose of the student association to offer students affordable accommodation. However, if the student association lets the same bedsits as a summer hotel to tourists, this will be considered taxable commercial activity. In summary, activities that realise the institution's non-profit purpose are tax exempt. Activities that do not directly realise the purpose, but help finance it, are taxed.

Income from unrelated economic activity will still be exempt from tax if the total gross turnover does not exceed NOK 140,000 (~ €14,000) a year for philanthropic and public-benefit institutions and organisations, or NOK 70,000 (~ €7,000) for other tax-exempt organisations.

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?)

A foundation will not automatically be included in the tax roll. If a foundation is uncertain whether it meets the requirements for tax exemption, it must contact the tax office for an evaluation of the question. In order to evaluate whether a foundation satisfies the requirements for tax exemption pursuant to section 2-32 of the Taxation Act, the foundation will normally have to provide information/proof showing, inter alia, the nature of its business, statutory purpose, financial reports and activities that the foundation is engaged in.

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

There are no specific reporting requirements for such funds according to tax law. Taxable income will have to be reported in accordance with ordinary regulations.

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 general obligation. For the donor to be able to claim a tax deduction, there is a reporting obligation for the foundation, see part III question 6 below.

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?

No.

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.

No.

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			
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)	X			

programmes/ other activities aimed at building bridges between nations)				
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”?

Tax-exempt foundations will generally have to benefit "the public at large", but there is no statutory requirement.

- 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?

Probably no.

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.?

There is no such requirement in tax law. However, such financial support may indicate that the foundation does provide economic profit for others, which can support a presumption that the foundation does not have a non-profit purpose.

Foundation law: Foundation law only accepts distributions to its purpose in the statutes. Wages, remunerations and purchases are allowed, but they must be at market value.

- 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?

Foundation law: The liquidation board must ensure that the obligations are met insofar as the creditors do not waive their claims or agree to another debtor taking the place of the foundation. The remaining funds after the creditors have been paid are to be distributed to the purpose. This means

that the remaining funds must be used in a manner that is consistent with or related to the purpose of the foundation. If this is not possible, the funds must be used instead for a non-profit purpose.

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**?

Remuneration of the board members is allowed pursuant to both civil law and tax law, unless restrictions are stipulated at the establishment for the foundation or statutes.

The remuneration of board members must be proportionate to the work and responsibility that is associated with the office. The Foundation Authority may reduce remuneration that is unreasonably high.

Remuneration agreed or decided in contravention of the above is not valid. If such remuneration has been paid, then it must be returned to the foundation.

- 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)

Small symbolic benefits in return may be allowed. If the benefit is more than symbolic, the benefit will be regarded as consideration, and, as a consequence of this, the grounds for a tax deduction for the donor will be reduced proportionate to the value of the consideration.

- 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

There are no limits in tax law, as long as the remuneration serves the purpose of the foundation set out in its statutes and the remuneration paid is in accordance with general market conditions.

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				x	

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

*Provided it specifically is part of the purpose of the foundation, for example family foundations.

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?

In principle foundations are to be managed with a view to lasting in perpetuity. Foundations that are not established for specific periods of time can thus not make distributions entailing that the foundation will be wound up over time. Foundations may however be established for a specific time period and spend down their endowment.

It is common for foundations to regulate in their statutes that only a certain portion of the annual return can be used for distributions, while the remaining portion of the return is to be added to the capital to maintain the monetary value.

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. Foundations can be set up for a limited period of time. There is no clear rule, but it is assumed that foundations must have a minimum duration of five to six years.

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)?

In foundation law, foundations are in principle not required to make annual distributions, unless the statutes contain provisions requiring such. However, foundations are required to fulfil their purpose, thus foundations with distributions as their purpose can as a rule not fail to make distributions over time without reasonable consideration.

The tax law does not contain any such requirements.

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”?

No, not unless the statutes contain provisions to this effect.

The tax law does not contain any such requirements.

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*			

*If accumulation has a reasonable, responsible explanation.

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*			

*If accumulation is deemed to be necessary. Whether such accumulation is necessary or not, is determined based on a specific overall assessment of the terms of the tax exemption mentioned above and in light of the presumption that the tax exemption in principle requires that the foundation directly or indirectly uses all the funds to fulfil its purpose.

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

Yes. However, when assessing the tax exemption, all activities that a foundation is engaged in, including activities in another country, are relevant.

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)?

Yes, if it is compatible with the foundation`s non-profit purpose.

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

Grants and donations are often tax exempt, but a specific assessment must be made. If there is sufficient affiliation between the grant/donation and taxable economic activity, the grant/donation might be taxable.

Grants and donations are tax exempt for foundations that satisfy the conditions pursuant to section 2-32 of the Taxation Act.

b) Investment income (asset administration)

Interest from fixed rate bonds

Equities

Income from leasing of a property that belongs to the foundation

With some limitations, there is a general exemption for legal persons for taxation of capital gains and received dividends and distributions on shares and equity interest in partnerships in Norway and the EEA area. Interest income from bonds and leasing of property is taxable.

Tax-exempt foundations that have invested all of their capital in equities, bank deposits, etc., and realise their non-profit purpose through the return on their investments (passive asset management) will not be taxed. Other income will be taxable if it is deemed as unrelated economic activity.

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)

An otherwise tax-exempt foundation can carry out related economic activity, see question 1 above.

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

Activities that realise the institution's non-profit purpose are tax exempt. Activities that do not directly realise the purpose, but help finance it, are taxed.

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

The question is still whether the foundation has a commercial purpose. A holding foundation that has a controlling influence over the commercial activities will have a commercial purpose as a rule and thus be taxable. In order to achieve tax-exempt status, a non-profit purpose must be present and be the foundation's primary purpose.

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

Yes, corporate income tax, see section 2-2 first paragraph (h) of the Taxation Act. See however question 15 b) above. For tax-exempt foundations capital gains will not be taxed, unless they are gained from some extent of active capital management.

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

Norway has a VAT compensation scheme for non-profit organisations. Pursuant to a simplified model, the organisation must have total operating expenses of at least NOK 100,000 (~ €10,000) after delimitations and deductions.

Pursuant to the documented model, the organisation must have actual VAT expenses that qualify for compensation of at least NOK 7,000 (~ €700).

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

Yes.

Foundations that have a commercial purpose are subject to the same capital taxes as other taxable entities.

Tax-exempt foundations are also exempt from capital taxes. Exceptions are, however, made for assets held as part of unrelated economic activity. Further in section 2-32, fifth paragraph of the Taxation Act, it is stated that family foundations and other estates in which the return normally passes to members of a certain family are subject to capital taxes.

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

Yes, ordinary rules of taxation apply for foundations. There are some tax exemptions for foundations and other entities. An important exemption is that there is no tax on the sale of shares in limited liability companies, securities funds and some other similar assets cf. question 15 b).

Foundations that are tax exempt are also exempt from taxes on the transfer/sales of assets. If a tax-exempt foundation is liable to tax for unrelated economic activity pursuant to section 2-32, subsection 2 of the Taxation Act, gains from the sale of assets that are used in the economic activities are also taxable. Taxation is however limited to any reversed depreciation charges.

Document duty is a tax paid to the public treasury upon the official registration of certain documents, such as the registration of a deed to real property. This tax is payable upon the transfer of the title to real property amounting to 2.5 % of the market value.

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

Property tax is a municipal tax that the individual municipality can collect pursuant to Act no. 29 of 6 June 1975 relating to Property Tax (Property Tax Act). Pursuant to the Act it is the local council that determines whether a property tax will be collected in the municipality, and the local council can collect property tax from "works and farms" (for example, industry) or areas developed in an urban manner, or both works and farms and areas developed in an urban manner. Effective from the 2007 tax year the municipalities have had the authority to collect property tax from the entire municipality.

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:

- 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

Yes. Norwegian and foreign foundations are treated equally and must fulfil the same requirements as set out above. Norwegian tax authorities will normally accept documents in English or the Nordic languages. If the documents are in any other language, translation will normally be required.

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.

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 rule, the Norwegian distributing company must deduct 25% withholding tax on dividends. The tax rate may however be reduced in accordance with tax treaties or Norwegian tax regulations. If a foreign shareholder is entitled to a lower tax rate than the tax rate deducted, the shareholder can apply for refund of overpaid withholding tax.

With effect from 1 July 2021, withholding tax is imposed on interest income and royalties paid from related parties to certain entities in low tax jurisdictions. Exemptions are made for the EEA area.

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?

Tax deduction:

Donors can claim a deduction from taxable income for monetary donations to companies, foundations or associations located in Norway or another EEA member state. See section 6-50 of the Taxation Act. The foundation must not have a commercial purpose according to section 2-32 in the Taxation Act, see above, and it must pursue one or more of the following activities:

- a) Care and health promotion work for children or young people, and for the elderly, infirm, disabled, or other disadvantaged groups.
- b) Activities directed at children and young people within music, theatre, literature, dance, sport, outdoor pursuits, etc.
- c) Religious or other belief-based activities.
- d) Activities directed at human rights protection or development aid.
- e) Disaster relief and activities to prevent accidents and injury.
- f) Cultural protection, environmental protection, nature conservation or animal welfare.

Companies and associations, including religious and belief-based communities that receive the donation must have a national scope on 1 January of the year in which the donation is made.

However, the requirement for national scope does not apply to foundations. Foundations must receive state aid in the year in which the gift is made.

Furthermore, it is a condition that the association is responsible for keeping accounts concerning donations received, and that the foundation submits the requisite information in machine-readable form to the Directorate of Taxes.

The gift must amount to at least NOK 500 (~ €50) in the income year in which it is donated. A maximum deduction of NOK 50,000 (~ €5,000) is allowed per year per donor. In order to claim the deduction, the organisation must have sent details of the donor and gift amount to the authorities within the defined deadlines.

Furthermore, there is a special provision allowing for deductions for contributions for scientific research and occupational training, see section 6-42 of the Taxation Act. There is no maximum nominal limit to the contribution.

Deductions pursuant to section 6-50 of the Taxation Act may be allowed in addition to deductions for contributions to scientific research or vocational training pursuant to section 6-42 of the Taxation Act to the same organisation, if the conditions for a deduction have been satisfied in accordance with both provisions. There is no requirement that the taxpayer must have positive ordinary income for the year. Deductions for such gifts can thus establish or increase loss carry-forward.

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?

See question 1, above.

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

Only cash.

3. Tax treatment of corporate donors

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

They are treated the same as individual donors, see question 1, above.

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

Only cash.

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

Tax deductions are allowed for gifts to foundations domiciled in the EEA area, provided the foundation satisfies the same tax exemption requirements that apply to Norwegian foundations, see above.

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)?

It is a requirement for deductions that gifts received are reported by the foundation in machine-readable form to the Directorate of Taxes, cf. section 6-50-3 of the regulations pursuant to the Taxation Act. In the event of an error or failure to report, the taxpayer must contact the organisation as quickly as possible and request that the information is reported.

Taxpayers that donate gifts to foreign organisations etc. domiciled in the EEA area must themselves provide information on the gift in their tax returns. On request taxpayers must be able to produce a receipt from the organisation for the gift donated. This receipt must contain all the information that is required in order to properly identify the deduction, including the donor's name, address, Norwegian national identity number and amount of the donation in Norwegian kroner.

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?

The foundation must:

- Be based in the EEA.
- Be approved by the Tax Administration. If the foreign-based foundation is not included in the list of approved organisations, documentation that the foundation satisfies the requirements in question 1 above must be submitted. The documents must be in the Norwegian, Swedish, Danish or English.
- Issue a receipt stating the donor's name, address, Norwegian national ID number and the amount donated in Norwegian kroner.

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?

No.

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?

Distributions from foundations or trust funds are taxable as a rule, cf. section 5-42, letter b of the Taxation Act. This applies regardless of whether the distribution is made as a lump-sum payment or a continuous benefit.

There are several exceptions to this rule. Educational scholarships outside of working life is an example here.

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?

No.

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

No.

V. Gift and inheritance tax

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.

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

We are not aware of any such discussions in Norway.

- 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?**

No.

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

Yes.

- 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?**

A separate register for BO of all legal entities.

- 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

The Norwegian Government is working on revising the Norwegian foundations legislation. On 21 October 2016, a public committee appointed by the government presented an Official Norwegian Report (NOU 2016:21) proposing new foundations legislation.

The Norwegian Government is currently still working on the proposal.

- 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?

Supervisory authorities are generally encouraged to work strategically to collaborate. The Norwegian government has for example recently proposed an act giving public bodies increased opportunities to share information.

- c) Tendency towards more transparency requirements?

Generally, transparency requirements are high in Norway.

- d) Tendency towards more self-regulation? Self-regulation replacing hard law regulation?

- e) Tendency to use alternative forms to classic public-benefit foundations

We do not have statistics to comment on the use of alternative forms to classic public-benefit foundations such as organisations and limited companies, but we do see that the number of new foundations is quite stable from year to year. The tendencies are that there has been a reduction in the number of foundations in Norway and that the remaining foundations are getting larger.

- f) Other?

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

There are not many laws regulating fundraising. There is a specific rule in the Foundation Act that applies the general rules on alteration of/amendment to the statutes of a foundation to fundraisers regardless of the entity. If a fundraiser wants to direct funds collected for a particular cause to a different cause, the fundraiser must apply to the Foundation Authority.

There are also some best practice standards provided by the industry organisation [the Fundraising Council \(Innsamlingsrådet\)](#). The Fundraising Council is working for increased competence, sustainable income-generating activities, and the promotion of ethical fundraising.

We would also like to refer to the Norwegian foundation [The Norwegian Control Committee for Fundraising \(Innsamlingskontrollen\)](#). Their Approval Registry is a voluntary registration scheme for organisations that raise funds for charitable causes.

VII. Further information

Useful contacts

The Norwegian Gaming and Foundations Authority, Tel: +47 57 82 80 72 or
e-mail: postmottak@lottstift.no

The Norwegian Tax Administration, Tel: +47 800 800 00 or contact form
(<https://www.skatteetaten.no/en/contact>)

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**



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