

# Foundations/Non-Profit Organizations



## Foundations

The number of foundations in Germany has increased significantly in the last few years, more than doubling since 2000. At present there are more than 20,500 incorporated foundations, which overall hold trust capital of approximately more than 100 billion euros. This trend has received fresh impetus from considerable improvements in the tax environment for donors and foundations in 2007, as well as from the 2012 revision of the civil law regulations relating to foundations.

Creating a foundation can be a means of pursuing many different objectives. By establishing a non-profit foundation, the founder can devote all or a part of his assets to charitable causes and, at the same time, take advantage of substantial tax benefits. The current low-interest period poses special challenges to foundations.

### Contacts

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With a “family foundation” the founder can permanently consolidate his assets to ensure that, after his death, his family will continue to be provided for according to his wishes. By means of a “business foundation” the founder can control the long-term management of his business while his family is provided for through the business’s proceeds. By combining the various types of foundations, one can pursue these and other objectives simultaneously.

## └ Non-Profit Organizations

Non-profit organizations (NPO) enjoy tax privileges but are also subject to restrictions under tax law. The general ever increasing complexity of tax law does not spare at the tax regime relating to non-profit organizations. At the same time, there has been a noticeable increase in the number of external audits conducted by the revenue authorities in the non-profit sector. A frequent result is that cases that would have gone unchallenged in the past now invite scrutiny. Violations of the laws governing non-profit organizations may result in the payment of tax arrears, loss of non-profit status, and personal claims against the governing bodies of non-profit organizations. At the same time there are also organizational options for non-profit organizations that often go unused. The area of value added tax in particular deserves particular attention. In addition to the tax law barriers, non-profit organizations are also affected by cutbacks in subsidies in the wake of public sector austerity measures, with the result that competition for private donations is increasing considerably. In this difficult environment, our many years of experience allow us to provide you with the support you need.

Foundations/Non-Profit  
Organizations

## Areas of Expertise

- Advising on the legal possibilities and tax advantages associated with establishing a foundation or non-profit organization and on selecting the most suitable type of foundation or legal form in light of the objectives pursued.
- Planning, organization, and tax optimization of asset succession with the involvement of family foundations and/or non-profit foundations, including asset structuring and inheritance tax.
- Drafting founding documents, such as the foundation agreement and charter, or the articles of incorporation for an association or limited liability company (GmbH), guidelines for awarding grants, etc.; tax optimization in the area of fundraising.
- Conducting administrative procedures required by the revenue authorities, the supervisory authority for foundations and endowments, and other public authorities.
- Preparing for and conducting foundation board meetings, meetings of members and meetings of partners for non-profit organizations.
- Advisory and support services for management boards, managing directors, or trustees in their day-to-day activities, particularly in connection with liability issues, changes of purpose or other charter amendments, including statute adjustment in accordance with Section 60a of the Fiscal Code of Germany.
- Organizing the (re)structuring of non-profit organizations and advising on the legal and tax implications thereof.
- Ongoing legal and tax advice and support services for foundations and non-profit organizations engaged in conducting projects of their own or in cooperative arrangements with non-profit and/or commercial partners (sponsoring); identifying and avoiding compliance risks, particularly with respect to the use of funds in compliance with the laws applicable to non-profit organizations and in charity law.
- Handling current accounting, preparing the required annual financial statements and tax returns, including documenting the use of funds in compliance with the special legal requirements; if required, audits of annual financial statements by our auditing firm; advising on optimizing accounting practices in accordance with the needs of individual non-profit organizations.
- Advising on and organizing the termination of foundations and non-profit organizations; in particular, preparing dissolution resolutions, carrying out the dissolution procedure and liquidation.
- Advising on legal and tax issues with the acquisition mortis causa of assets by foundations, including the administration of estates.
- Lecture events, workshops and seminars on topics related to foundation and non-profit law and on dealing with such legal matters in practice.

## The Team

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Areas of expertise: advising and representing family foundations, especially large ones, including disentailment foundations, service on the management boards of non-profit organizations

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