

The distribution of assets to the donors results in no taxes levied; it is merely a form of ownership transfer subject to a general fee of EUR 25. If the foundation is subject to corporate tax, a tax of 10% will be levied on reserves paid out to donors upon dissolution.

3.3. International Context

The Belgian International Private Law is based on the company seat theory, which means that the legal capacity of a foundation is judged in accordance with the law of the country in which the registered office is located. In determining which domestic law is applicable, not the registered seat set out in the statutes is relevant, but the place where the business activity is actually performed. A foundation relocated from abroad to Belgium is strictly subject to Belgian law.

In Belgium, abroad-based foundations are subject to the same reporting regulations and supervision as foundations established under Belgian law²⁰. Tax advantages are listed in Article 104, which apply under the following conditions:

The beneficiary must have legal capacity under Belgian law.

The foundation may not be aimed at profit-making (neither for the benefit of the founder nor for that of its members).

The foundation must engage in special activities: scientific, cultural, environmental activities or activities for the benefit of developing countries, disabled, elderly or needy people or victims of natural disasters.

The general management costs or administrative costs may not exceed 20% of the total foundation resources. Public approval is granted for 3 years at a time.

3.4. Conclusion

Generally, it can be said that the private foundation in Belgium is not yet developed very far. The statutory regulations in the Association and Foundation Act are not always precise and clear.²¹ (For Kocks&Partners2006, it was not possible to comprehensively evaluate the actual importance of private foundations).

- Given to the strict reporting and supervisory regulations and the right of third parties to inspect the files of foundations, Belgian foundation law does not offer the same global conditions as Liechtenstein. Private foundations primarily serve the certification of securities.

²⁰ Cf. *ibid*, p. 694.

²¹ Cf. Theisinger (2006), p. 19.