

Private Foundations Law

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The Privatstiftungsgesetz (Private Foundations Law, PSG) was published in the Federal Law Gazette No. 694/1993, and came into effect on 1.9.1993.

Under the previous legal situation, such foundations could only be established in Austria which had a purpose for the common good or of charity. In addition to this, these foundations were also subject to administrative supervision. This restrictive legal ruling resulted in an outflow of assets to foundations abroad, which was undesirable in respect of the national economy. In order to counteract this, the legislature has created the new institution of the Private Foundation.

A private foundation is a collection of assets without proprietors; the assets of the foundation "belong to itself". By contrast with the previous situation, it may be established not only for the common good, but basically for any legal purpose. In future, then, it will also be possible in Austria for family or support foundations to be established; likewise, a foundation may serve as a holding or a group parent company. A private foundation may not, however, exercise any commercial activity extending beyond purely ancillary activity, and also may not undertake the management of a trading company.

The minimum assets of a private foundation must amount to ATS 1 million; because of the running costs for the organizational elements of the foundation, however, a substantially larger body of foundation assets is desirable.

The organization of the private foundation is modeled on that of a commercial company. It is provided with organizational bodies such as the foundation board of directors, the foundation auditors, and, if applicable, a supervisory body.

In order to make the establishment of a foundation an attractive prospect from the point of view of taxation also, the PSG makes provision for special tax provisions for foundations.