

• **WORKING NOTES**

DRAFT VERSION: FEBRUARY 14, 2012

SUBJECT TO ONGOING REVIEW, UPDATE, AND CORRECTION

(THIS DOCUMENT DOES NOT CONSTITUTE LEGAL ADVICE. THIS DOCUMENT DOES NOT SEEK TO SUMMARIZE ALL POSSIBLE RESTRICTIONS OR RELATED DETAILS.)

OVERVIEW OF SOME LEGAL AND REGULATORY RESTRICTIONS ON INTERNATIONAL FUND TRANSFERS OR GRANTS

QUESTIONS

The questions below were presented to local counsel for analysis.

Option 1	Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?
Option 2	Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?
	Are there any standard mechanisms in your country to avoid such restrictions?

KEY ASSUMPTIONS

The responses displayed in this document are based on the following working assumptions:

1. All local chapters have by-laws or other constituent documents that explicitly authorize the transfer of funds to WMF in the U.S. and the receipt of funds from WMF to support the local chapter's work. Note that, if this assumption is not correct, additional legal limitations and costs are likely to apply.
2. All local chapters use the funds they receive from WMF towards their charitable, non-profit goals and will not use those funds for commercial purposes.
3. WMF will not transfer funds to parties that have terrorist or other connections that would put those parties on the U.S. List of Specially Designated Nationals and Blocked Persons.

4. Local chapters have complied with all local laws. When advantages are described for a particular status of entity (like "charity" or "non-profit"), the local chapter has undertaken the legal and administrative costs to obtain that status.
5. The word "grant" in this document refers to funds that are provided for a specific purpose, which cannot be used for other purposes than determined by either the local chapter or WMF, and the word "donation" refers to funds that are provided voluntarily without any or only minimal conditions attached to them or without any expectation of anything given in return. Any conditions imposed on the use of "grants" comply with WMF's and the local chapter's by-laws.
6. All local chapters will only receive the amount of funds from WMF that is required to cover the expenses that the chapters have incurred in the same tax year.

To the extent any of the above assumptions prove to be incorrect, the analysis reflected below could change.

SNAPSHOT OF RESPONSES

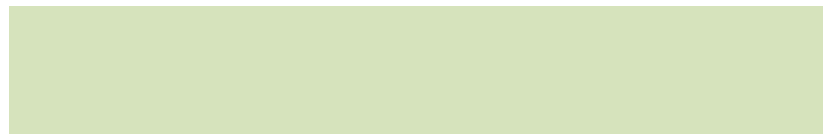
Key:

There are two options: Option 1 - Transferring funds from local chapters to WMF; and Option 2 - Transferring grants from WMF to local chapters. The snapshot of responses is intended to provide a **rough** and **high-level** estimate of the levels of regulation likely to apply to such transfers and an **initial** comparison between the two options to determine which option is less burdensome to carry out. Please note that the responses represent a snapshot and do not provide an exhaustive and final analysis of the application of relevant legal, including tax, restrictions to WMF and local chapters.



= It is likely that this option is more difficult to carry out than the other option because there seem to be more restrictions that prevent the flow of funds in a significant way.

= Based on present available information, it is not yet possible to determine which option is likely easier to carry out (assuming there is a difference). If making such distinction is considered material, additional research is possible.



= It is likely that this option is easier to carry out than the other option because there seem to be fewer restrictions that prevent the flow of funds in a significant way.

Country	Option 1 Transfers of funds from local chapters to WMF	Option 2 Transfers of grants from WMF to local chapters
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Country	Option 1 Transfers of funds from local chapters to WMF	Option 2 Transfers of grants from WMF to local chapters
WMF (USA)	There may be some restrictions under export control laws.	The transfer of grants must be made for charitable purposes (as defined by US tax law).
Argentina	There are currency control restrictions on transfers of funds out of Argentina, e.g., such transfers must usually be registered with the central bank and “validated”. Also, such transfers by non-profit organizations may be challenged on the grounds that the purpose of the tax exemption is not achieved. The tax status of the local chapter should be further investigated to determine whether such challenge on its tax status is likely. Further, parties making donations to the local chapter may challenge the fact that those donations are transferred to WMF.	There are currency control restrictions on transfers of funds into Argentina, e.g., such transfers must usually be registered with the central bank. Money laundering regulations may apply for transfers over US\$50,000. The tax status of the local chapter should be further investigated to determine whether the funds can take the form of a donation or grant.
Australia	As a general matter, past experience shows few issues other than delays due to bank efficiency. If the local chapter is eligible for income tax exemption, it may lose its tax status if it transfers the funds to WMF. More information is required to determine whether the local chapter is income tax exempt.	The receipt of grants may have tax consequences for the local chapter depending on whether the local chapter is eligible for income tax exemption and on its other income and expenditure during the same tax year. More information is required to determine whether the local chapter is income tax exempt.
Austria	The transfer of funds is likely to affect the tax status of the local chapter unless WMF agrees to act on behalf of the local chapter in a role directly related to the local chapter’s goals.	There are no major restrictions.
Bangladesh	Special permission will be required for transfers of funds out of Bangladesh, which are also subject to a limit restriction determined on a case by case basis. It is likely difficult to obtain such permission. Also, a prior authorization from a non-governmental organization office is required for each transfer of funds out of Bangladesh.	A prior authorization from a non-governmental organization office is required for each transfer of grants into Bangladesh. Reporting requirements are likely to apply for sums of US\$2,000 and above.
Canada	The local chapter may lose its non-profit status if it makes a profit regularly, which may be the case if the transfers of funds to WMF are not tax deductible. Such transfers may not mislead donors. Money laundering regulations may apply.	We have not experienced issues with respect to transfers to Wikimedia CA. The local chapter may need to file an information return. Money laundering regulations may apply.
Chile	Gift tax may apply to the transfer of funds to WMF.	The receipt of grants must be notified to the Central Bank of Chile.
Czech Republic	The transfer of funds may affect the local chapter’s tax benefits unless WMF agrees to use the funds for purposes such as “education” or “research and development”. The transfer may have other tax consequences as well, e.g., a gift tax may apply. More information is required to make this determination.	Based on WMF’s practical experience, there are reporting requirements and possibly a need for segregated accounts.
Denmark	The transfer of funds may not be allowed if the chapter is registered as a charity or the purposes of WMF are not in accordance with the purposes of the local chapter. Assuming the local chapter is treated as a non-	There are no major restrictions.

Country	Option 1 Transfers of funds from local chapters to WMF	Option 2 Transfers of grants from WMF to local chapters
	profit, the transferred funds are not subject to tax unless they qualify as a royalty payment.	
Estonia	It is arguable that the transfer of funds would make the local chapter's main purpose profitable, which is prohibited. The local chapter will have to pay income tax on the transferred funds. Money laundering regulations may apply.	Money laundering regulations may apply.
Finland	Gift tax is likely to apply to the transfer of funds. In addition, the local chapter may lose its tax exempt status, depending on how the tax authorities view those transfers. Money laundering regulations may apply.	There are no major restrictions.
France	It is recommended that only 50% of local chapter's funds are transferred to WMF to avoid the local chapter losing its independence. The local chapter may also lose its tax exempt status unless WMF will apply the funds to non-profit activities similar to those of the local chapter.	There are no major restrictions.
Germany	All fundraising must be conducted by the German public body, which will transfer the funds to WMF. This is the present practice.	There are no major restrictions.
Hong Kong	There may be restrictions under agreements with third parties, such as the Government.	There may be restrictions under agreements with third parties, such as the Government.
Hungary	The transfer of funds is not possible unless WMF uses the funds to perform exactly the same activities as those listed in the local chapter's statutes.	There are no major restrictions.
India	WMF's experience to date indicates that the local chapter cannot send any significant funds to WMF.	There are registration and filing requirements. The receipt of grants will be tax free if the local chapter obtains a tax exempt status.
Indonesia	The transfer of funds may not be allowed if the local chapter qualifies as a foreign-funded foundation and such transfer would be deemed to cause a loss to the public or Indonesia. This is not likely to be the case in practice, however. Money laundering regulations may apply.	The receipt of funds may not be allowed if the local chapter qualifies as a foreign-funded foundation and such receipt would be deemed to cause a loss to the public or Indonesia. This is not likely to be the case in practice, however.
Israel	Assuming that the local chapter is a registered non-profit organization, it may lose its tax exempt status when it transfers funds outside of Israel. Such transfers may also be prohibited depending on whether donations made to the local chapter are tax deductible.	The receipt of grants will be exempt from tax assuming that the local chapter is a registered non-profit organization and public institution. There are registration and filing requirements.
Italy	Italian tax authorities may not approve the transfer of all or a substantial part of locally collected funds. A contractual obligation to transfer the funds to WMF may also affect the local chapter's non-profit status and independence. To avoid gift tax, transfers of funds should take the form of payment for services, which is the current practice followed by WMF.	There may be tax consequences depending on how the funds are assessed under Italian tax law. More information is required to make this determination. But to extent that grants are used for not-for-profit activities, there probably would not be an alternation in tax status of local chapter.

Country	Option 1 Transfers of funds from local chapters to WMF	Option 2 Transfers of grants from WMF to local chapters
	Money laundering regulations may apply.	
Macau	Assuming the local chapter is tax exempt, the transfer of funds will have no tax consequences for the chapter.	Assuming the local chapter is tax exempt, the receipt of grants will have no tax consequences for the chapter.
Macedonia	The transfer of funds may be prohibited if they are classified as donations. Otherwise, there must be a legal ground for the transfer of funds (e.g., an agreement). Local banks may impose further conditions on the transfer of funds.	There must be a legal ground for the receipt of grants (e.g., an agreement). Local banks may impose further conditions on the receipt of funds. Money laundering regulations may apply.
Mexico	Assuming the local chapter is tax exempt, it may not normally transfer funds to WMF unless an authorization from tax authorities is obtained. There may be reporting requirements.	There may be reporting requirements on grants of more than 100,000 pesos. Certain conditions cannot be attached to the grants. However, they seem inapplicable in practice.
Netherlands	Gift tax may apply if obligations are connected to the funds.	Assuming the local chapter is tax exempt, the grants will not be subject to tax.
Norway	The transferred funds may not be tax exempt if the tax authorities conclude that the funds are no longer used for charitable purposes.	There are no major restrictions.
Philippines	There are currency control restrictions on transfers of funds outside of the Philippines, however, they are unlikely to apply. Money laundering regulations may apply.	Money laundering regulations may apply.
Poland	The funds may only be transferred if WMF's purposes are recognized as charitable under Polish law and those purposes are similar to the local chapter's purposes. The funds should take the form of a grant.	There may be reporting requirements if the local chapter receives over PLN15,000 per transfer or PLN35,000 per year.
Portugal	The fundraising agreement should not prevent the local chapter from carrying out its other objectives and therefore losing its independence. The transfer of funds may prevent the local chapter being tax exempt on the portion of funds it transfers to WMF. Such transfers should not mislead donors.	There are no major restrictions.
Russia	There are currency control and tax restrictions on transfers of funds outside of Russia. Wikimedia RU has informed WMF that the transfer of funds may subject WMF to 18% VAT and 12% administrative expenses.	There are currency control restrictions on transfers of grants into Russia. In practice, it is likely that the local chapter will face problems from the Russian administration when receiving the grants. It is also likely that the local chapter will have to pay 20% tax on the grants.
Serbia	The transfer of funds would be difficult to achieve in practice.	There are unlikely to be any major restrictions.
South Africa	An approval is required before funds can be transferred outside of South Africa. It is likely that 20% donations tax will apply to the funds.	The grants are tax free if the local chapter qualifies as a public benefit organization. Any conditions attached to the grant must be set out in the

Country	Option 1 Transfers of funds from local chapters to WMF	Option 2 Transfers of grants from WMF to local chapters
		by-laws of the local chapter and cannot benefit WMF or any person connected to WMF.
Spain	The transfer of funds is not allowed if it is not in line with the local chapter's purposes and if the local chapter cannot control that the funds are used for such purposes. The local chapter will need to ensure that its own costs are covered at all times. The transferred funds are not tax deductible.	Assuming that the local chapter is partially exempt from corporate income tax because of non-profit status, the receipt of grants will be tax exempt as long as they are not seen as remuneration for the chapter's economic activities.
Sweden	If the donations to the local chapter are tax exempt, extensive accounting requirements apply when those donations are transferred to WMF. Anti-money laundering requirements apply.	The grants will not have tax consequences for Wikimedia SE if they are considered as gifts. Further information is required to make this determination.
Switzerland	It is recommended that only up to 50% of funds are transferred. Fundraising licenses may impose additional restrictions on transfer of funds.	There are no major restrictions, although VAT liability may apply to the grants if they are considered as compensation for services. This will depend on the specific conditions attached to the grant.
Taiwan	An approval is required before funds can be transferred outside of Taiwan to WMF.	There are no major restrictions.
Ukraine	A special permit is required for transfers of funds outside of Ukraine. The local chapter must ensure that the transfers are in line with its non-profit activities in order to keep its special tax status. If the transfer takes the form of a donation, it may be more difficult to prove that the transfer is in line with the chapter's non-profit activities. Donation agreements can be unilaterally terminated in some circumstances.	The receipt of grants must be documented.
UK	The transfer of funds should be discretionary. It is recommended that no more than 50% of local chapter's income is transferred. The trustees will need to re-consider such transfers regularly and ensure that WMF will use the funds on Wikimedia GB's charitable purposes.	Assuming that the local chapter is tax exempt, it is unlikely that the grants will be taxed as long as no conditions are attached to the funds that would affect the local chapter's independence.
Venezuela	The funds cannot be transferred outside of Venezuela.	There are no restrictions on the receipt of grants as long as the chapter is registered as a non-profit organisation and has submitted and obtained a ruling from tax authorities that it is tax exempt.

SUMMARY OF RESPONSES

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
<p>United States</p> <p>Legal status of Wikimedia Foundation, Inc. (WMF)</p> <p>Incorporated Tax deductibility: YES Charitable status: YES (501(c)(3))</p>	<ul style="list-style-type: none"> • WMF cannot engage, either directly or indirectly via its chapters, in unlicensed transactions with entities or persons named on the List of Specially Designated Nationals and Blocked Persons or with entities that are owned 50% or more by listed persons. Similarly, the U.S. economic sanctions programs may effectively preclude the receipt of donations from sanctioned countries. • The receipt of grants from chapter located outside of the U.S. may subject WMF to registration and reporting obligations under the Foreign Agents Registration Act if WMF engages in political or fundraising activities in the U.S. on behalf of or in the interest of those local chapters. 	<ul style="list-style-type: none"> • WMF can make distributions to any non-U.S. organization provided that the distributions carry out a charitable purpose (as defined by US tax law). • The directors of WMF have a fiduciary duty to ensure that funds are used solely for charitable purposes.¹ 	<ul style="list-style-type: none"> • WMF could conduct due diligence of foreign partners to assess how funds will be used, request regular audits and reporting to ensure funds are not used in violation of U.S. law and require agreement as to the proper use of funds.
<p>Argentina</p>	<ul style="list-style-type: none"> • Transfers of funds by tax exempt non-profit organizations may be challenged on the grounds 	<ul style="list-style-type: none"> • All transfers of foreign currency into Argentina must normally be registered with the Central Bank. 	<p>No.</p>

¹ Note also that distributions from donor-advised funds established within WMF (if any) are subject to more restrictive rules. In addition, the U.S. government maintains economic sanctions programs against various countries, with more limited sanctions applicable to other countries. If funds are to be distributed to or if the transaction otherwise involves any sanctioned countries or their governments, the transaction may be prohibited by U.S. law. Licensing or another form of authorization may be available to support certain charitable activities in or involving U.S.-sanctioned countries.

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<p>Legal status of WMF's chapter in Argentina (Wikimedia AR)</p> <p>NGO: YES (Non-profit Association/ Civil Association). It is assumed that Wikimedia AR is registered with the Public Registry of Commerce.</p> <p>Tax deductibility:</p> <p>Charitable status:</p>	<p>that the purpose of the tax exemption is not achieved. To provide a more definite answer, it would be necessary to investigate Wikimedia AR's tax status and conditions attached to such status.</p> <ul style="list-style-type: none"> All transfers of foreign currency out of Argentina must normally be registered with the Central Bank and, before any foreign currency can be sold by the local bank, the Federal Tax Authority must "validate" the transaction.² Parties making donations to Wikimedia AR may challenge the fact that those donations are transferred to WMF. Where the transferred funds exceed US\$250,000 per calendar year, additional supporting documents may be required. 	<ul style="list-style-type: none"> Wikimedia AR must demonstrate that it participates in charitable activities in Argentina and that it frequently receives funds to finance its activities in Argentina. If Wikimedia AR receives funds in excess of AR\$50,000, certain money laundering requirements must be complied with.³ Although normally it should not make a difference whether the funds take the form of a donation or grant, to provide a definite answer Wikimedia AR's tax status and conditions attached to that tax status should be further investigated. 	
<p>Australia</p> <p>Legal status of WMF's chapter in Australia (Wikimedia AU)</p> <p>NGO: YES (Unincorporated Association)</p> <p>Tax deductibility: NO</p> <p>Charitable status: NO</p>	<ul style="list-style-type: none"> Practical experience showed few problems other than local bank efficiency issues. If Wikimedia AU meets certain conditions, it is entitled to "self-assess" as exempt from income tax on the basis that it is a non-profit community services organisation. If that is the case, the transfer of funds to an entity outside of Australia is likely to cause Wikimedia AU to lose its income tax exempt status. More information is required to determine whether Wikimedia AU would be eligible for the tax exemption. 	<ul style="list-style-type: none"> If Wikimedia AU meets certain conditions, it is entitled to "self-assess" as exempt from income tax on the basis that it is a non-profit community services organisation. If that is the case, the grant will not give rise to any income tax liability in Australia. More information is required to determine whether Wikimedia AU would be eligible for the tax exemption. If Wikimedia AU is not exempt from income tax in Australia, the grants will be assessable income and therefore potentially subject to income tax unless 	No.

² Argentine non-profit organisations can donate up to US\$2,000,000 per calendar month to non-Argentine residents if certain conditions are met.

³ In addition, transfers of funds in excess of US\$2,000,000 per calendar month will be subject to a 365-day mandatory deposit.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
	<ul style="list-style-type: none"> If Wikimedia AU is not exempt from income tax in Australia, the tax consequences of the transfer will depend on whether the transfer is a gift (i.e., it is voluntary and is not attached with any conditions) or whether it is made pursuant to the fundraising agreement. If the transfer is a gift, it is unlikely to be deductible from the income of Wikimedia AU. If it is made pursuant to the fundraising agreement, it will be necessary to review the agreement in order to advise whether the amounts are deductible from Wikimedia AU's income. 	<p>Wikimedia AU has incurred corresponding amount of expenditure during the same income year which can be deducted from the total taxable income - therefore reducing the amount of tax payable.</p>	
<p>Austria</p> <p>Legal status of WMF's chapter in Austria (Wikimedia AT)</p> <p>NGO: YES (Charitable Association) Tax deductibility: YES Charitable status: YES</p>	<ul style="list-style-type: none"> Wikimedia AT is entitled to transfer some (but not all) of its funds to WMF without losing its tax exempt status, however, in such case a contract should be put in place between Wikimedia AT and WMF requiring that WMF acts on behalf of Wikimedia AT in a role that is directly related to the charitable goals of Wikimedia AT, i.e., the Wikimedia AT can outsource its charitable actions to a third party. It may be necessary to notify the Austrian banks and tax authorities about the transfer of funds. 	<p>No.</p>	<ul style="list-style-type: none"> A contract could be put in place between Wikimedia AT and WMF requiring WMF to act on behalf of Wikimedia AT. The transfer of funds could be discussed with tax authorities, who are usually willing to cooperate.
<p>Bangladesh</p> <p>Legal Status of WMF's chapter in</p>	<ul style="list-style-type: none"> The transfer of funds to WMF will require a special permission from the Bangladesh Bank and will be subject to an authorized limit restriction, 	<ul style="list-style-type: none"> Wikimedia BD must register with the NGOAB and obtain prior authorization from the NGOAB each time it wishes to receive grants from outside of 	<p>No</p>

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
<p>Bangladesh (Wikimedia BD)</p> <p>NGO: YES (Society) Tax deductibility: YES Charitable status:</p>	<p>as specified by the Bank. It will likely be difficult to obtain such special permission.</p> <ul style="list-style-type: none"> Wikimedia BD must register with the NGO Affairs Bureau of Bangladesh ("NGOAB") and must obtain prior authorization from the NGOAB each time it wishes to transfer funds outside of Bangladesh, the aggregate of which cannot exceed the aforementioned authorized limit restriction. 	<p>Bangladesh.</p> <ul style="list-style-type: none"> Remittances of US\$2,000 and above must be reported to the Bangladesh Bank. 	
<p>Canada</p> <p>Legal status of WMF's chapter in Canada (Wikimedia CA)</p> <p>Non-profit organisation (Counsel has assumed that Wikimedia Canada is a non-profit for the purposes of paragraph 149(1)(l) of the Income Act (Canada). Tax deductibility: Charitable status: Not currently registered</p>	<ul style="list-style-type: none"> Wikimedia CA's non-profit status may be lost if it makes a profit on a regular basis, which may be the case if the transfers of funds (either in the form of a grant or donation) to WMF are not tax deductible. More information is required to make this determination. If Wikimedia CA transfers all or almost all of its locally collected funds to WMF, it could be seen as a conduit for WMF. Therefore, it is important that the transfer of funds is consistent with the purpose of fundraising activities disclosed to donors and should not be false or misleading, otherwise there may be issues under Canadian anti-trust laws. Anti-money laundering regulations may also apply. 	<ul style="list-style-type: none"> Wikimedia CA may need to file an information return with the Canada Revenue Agency if its income exceeds certain limits. Anti-money laundering regulations may also apply. We have experienced no practical restraints in grants to Canada. 	<ul style="list-style-type: none"> Wikimedia CA could seek registration as a charity in Canada. This would impose new requirements on Wikimedia CA. Marketing materials could be reviewed for accuracy.
<p>Chile</p> <p>Legal status of WMF's chapter in</p>	<ul style="list-style-type: none"> Chilean gift tax may apply to the transfer of funds, unless one of the exemptions provided by Chilean tax law applies. More information is required to 	<ul style="list-style-type: none"> The funds must be received through a Chilean bank and must be notified to the Central Bank of Chile. 	<ul style="list-style-type: none"> To avoid the potential gift tax liability, transfers of

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<p>Chile (Wikimedia CL)</p> <p>Non-profit corporation (In process but waiting on government approval) Charitable status:</p>	<p>make this determination.</p>		<p>funds from Wikimedia CL to WMF could be structured as a loan. This would need to be considered by local advisors on a case by case basis.</p>
<p>Czech Republic</p> <p>Legal status of WMF's chapter in Czech Republic (Wikimedia CZ)</p> <p>Civic association (Non-profit organisation) Tax deductibility: Charitable status:</p>	<ul style="list-style-type: none"> Wikimedia CZ may lose its tax benefits if the transfer of funds to WMF take the form of a donation. As a minimum, WMF must agree to use the funds it receives from Wikimedia CZ for generally limited purposes, such as "culture", "education" and "research and development". There may be other tax restrictions, which may make the transfers less efficient, e.g., gift tax may apply to Wikimedia CZ. More information is required to make this determination. 	<ul style="list-style-type: none"> Based on WMF's practical experience, there are reporting requirements and possibly a need for segregated accounts. The grants must be earmarked to finance the statutory qualified non-profit activities of Wikimedia CZ, such as "culture", "education" or "research and development". 	<ul style="list-style-type: none"> Potential gift tax liabilities could be avoided by channelling the funds to WMF indirectly via another Wikimedia entity established in a suitable jurisdiction (other than the U.S.).
<p>Denmark</p> <p>Legal status of WMF's chapter in Denmark (Wikimedia DK)</p> <p>NGO: YES</p>	<ul style="list-style-type: none"> The funds cannot be transferred by Wikimedia DK to WMF unless the purposes of WMF are in accordance with the purposes of Wikimedia DK (and legal under Danish law). Assuming that Wikimedia DK is treated as a non-profit, member-based association, no tax liability 	<p>No.⁴</p>	<p>No</p>

⁴ Assuming that Wikimedia DK is not registered as a charitable organization in Denmark, it is irrelevant whether the receipt of funds take the form of grants or donations.

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<p>Tax deductibility: NO (Donations less than \$300 are not deductible) Charitable status: The Danish chapter <u>does not appear to be a registered charity</u> with the Danish tax authorities.</p>	<p>will arise in respect of the transfer, as long as the transfer of funds does not qualify as a royalty payment for the use of WMF's intellectual property rights. More information is required to make this determination.</p> <ul style="list-style-type: none"> The contractual obligation to transfer the funds to WMF may affect Wikimedia DK's independence. However, as long as Wikimedia DK is not registered as a charity, this will have no tax consequences because Danish donors would not receive any Danish tax benefit for their donations regardless of whether the donations are deemed to be paid to Wikimedia DK or WMF. If Wikimedia DK is registered in Denmark as a charitable organization, it will not be entitled to transfer the collected funds to WMF U.S. 		
<p>Estonia</p> <p>Legal status of WMF's chapter in Estonia (Wikimedia EE)</p> <p>NGO: Non-profit status is being disputed in court. Tax deductibility: Charitable status: No</p>	<ul style="list-style-type: none"> It is arguable that by gathering donations in Estonia and transferring some of them to WMF, Wikimedia EE's main purpose is to gain profit through its activities. Such profitable activity as a dominant activity by a non-profit organisation is prohibited. Wikimedia EE will be subject to income tax on the donations/grants sent to WMF because legal entities are not exempt from such tax on donations.⁵ 	<ul style="list-style-type: none"> Money laundering and terrorism regulations may require Wikimedia EE/WMF to identify the origin of grants. 	<ul style="list-style-type: none"> WMF could collect funds directly from individuals resident in Estonia, who are exempt from paying income tax on donations.

⁵ Because Wikimedia EE can only use its funds for the purposes laid down in its by-laws, counsel recommend that the transfers of funds take the form of grants.

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	<ul style="list-style-type: none"> • Money laundering and terrorism regulations may require Wikimedia EE to identify the origin of donations. 		
<p>Finland</p> <p>Legal status of WMF's chapter in Finland (Wikimedia FI)</p> <p>NGO: YES (Finnish Association) Tax deductibility: NO (Donations under €850 are not deductible) Charitable status:</p>	<ul style="list-style-type: none"> • WMF will likely have to pay gift tax on the funds. The tax may be collected from Wikimedia FI if it cannot be collected from WMF. • If Wikimedia FI is deemed by the tax authority to be a non-profit association, the transfer of funds to WMF may affect the tax authority's deliberation on whether Wikimedia FI is acting for the public good, and hence, is tax exempt. However, if Wikimedia FI is deemed by the tax authority to be acting for the public good in spite of the express purpose of supporting WMF, no fiscal consequences should ensue from the transfer. • Money laundering regulations may require Wikimedia FI to identify the origin of donations. 	No. ⁶	
France ⁷	<ul style="list-style-type: none"> • Wikimedia FR should not transfer all of its locally collected funds to WMF, as it may lose its 	No. ⁸	<ul style="list-style-type: none"> • Wikimedia FR could request tax

⁶ There are no rules that would prohibit Wikimedia FI from receiving grants as opposed to donations. However, if Wikimedia FI is deemed by the tax authority to be a non-profit association, the receipt of grants from WMF may affect the tax authority's deliberation on whether Wikimedia FI is acting for the public good, and hence, is tax exempt. Such determination will depend on facts of each case and is subject to the discretion of the tax authorities.

⁷ The information is in part based on counsel advice previously obtained by WMF.

⁸ The tax consequences of the grant are as follows: a) corporate income tax will only apply if Wikimedia FR carries out profitable activities, b) VAT will not apply as long as the grant is not a payment for services rendered by Wikimedia FR; and c) gift tax is not levied to donations made to non-profit organizations.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
<p>Legal status of WMF's chapter in France (Wikimedia FR)</p> <p>NGO: YES (Association of general interest) Tax deductibility: YES Charitable status: YES (French law of 1901 non-profit status)</p>	<p>independence. There are no clear rules as to how much can be transferred; Wikimedia FR should keep at least the amount of funds it needs to carry out its local non-profit activity. For example, according to counsel's judgement call, grants of up to 50% of Wikimedia FR's fundraising revenue to WMF would probably be acceptable.</p> <ul style="list-style-type: none"> In addition, Wikimedia FR may lose its tax exempt status unless WMF will apply the funds to non-profit activities that are similar to activities carried out by Wikimedia FR. 		<p>authorities to provide an official opinion.</p>
<p>Germany⁹</p> <p>Legal status of Wikimedia's chapter in Germany (Wikimedia DE) and German public body (GPB)¹⁰</p> <p>NPO: YES</p>	<ul style="list-style-type: none"> As long as all fundraising in Germany is conducted by GPB and the transfer of funds to WMF takes place via GPB, the tax exempt and non-profit status of Wikimedia DE is not affected. GPB, Wikimedia DE and WMF should all share the same charitable purposes of education and research, which are recognized as such under both U.S. and 	<p>No.¹¹ The grants are exempt from corporate and business tax as long as they are connected to non-profit activities of the DE chapter.</p>	<p>No</p>

⁹ The information is in part based on counsel advice previously obtained by WMF.

¹⁰ A new promotional corporate body was established to support both Wikimedia DE and WMF due to tax issues that would have arisen if Wikimedia DE had transferred funds directly to WMF. Wikimedia DE would lose its tax exempt and non-profit status if it made any direct contributions to WMF, unless WMF agreed to act as an agent for Wikimedia DE.

¹¹ There is no German tax on donations if: (i) Wikimedia DE is a non-profit organization under German law; and (ii) Wikimedia DE remains a charitable non-profit organization for ten years following the receipt of the grants and all of its assets are used solely for charitable purposes; and (iii) the grants are used solely for charitable purposes under German law; or (i) Wikimedia DE's by-laws guarantee that Wikimedia DE's funds are only used for charitable purposes and such guarantee is followed in the day-to-day practice of Wikimedia DE; and (ii) the grants are used solely for charitable purposes under German law.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
Charitable status: YES Wikimedia DE holds 100% of the shares in GBP.	German law. This is present in practice.		
Hong Kong Legal status of WMF's chapter in Hong Kong (Wikimedia HK) Company limited by guarantee Tax deductibility: Charitable status:	<ul style="list-style-type: none"> There may be restrictions under the constitutional documents of Wikimedia HK or under agreements with third parties, such as the Government of Hong Kong SAR. For example, a restriction may have been assumed by agreement between Wikimedia HK and Inland Revenue requiring Wikimedia HK to expend its funds in Hong Kong as a condition for charitable status. More information is required to make this determination. 	<ul style="list-style-type: none"> There may be restrictions under the constitutional documents of Wikimedia HK or under agreements with third parties, such as the Government of Hong Kong SAR. More information is required to make this determination. 	N/A
Hungary Legal status of WMF's chapter in Hungary (Wikimedia HU) NGO: YES (Association of public utility) Tax deductibility: YES (linked to a limited amount) Charitable status: Charitable association qualified as public benefit (utility) organization ("PBO")	<ul style="list-style-type: none"> Transfers of funds from Wikimedia HU to WMF is possible only if WMF uses the funds to perform (as opposed to support) solely and exactly the same activities as those listed in Wikimedia HU's statutes. The fundraising agreement should contain the actual task/project that WMF would have to carry out with the support of the funds received from Wikimedia HU. In this regard, it makes no difference whether the funds are provided pursuant to a contractual obligation or on a discretionary basis. 	No.	<ul style="list-style-type: none"> If WMF became a member of Wikimedia HU, Wikimedia HU could transfer funds to WMF in certain circumstances, however, all grants provided to WMF must be subject to Wikimedia HU's public benefit and other purposes as they are set forth in

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
			its statutes.
<p>India¹²</p> <p>Legal status of WMF's chapter in India (Wikimedia IN)</p> <p>NGO: YES (registered Society) Tax deductibility: NO¹³ Funding transfers: A limited amount of funds can be transferred out of India. Charitable status:¹⁴</p>	<ul style="list-style-type: none"> • WMF experience to date indicates that Wikimedia IN cannot transfer funds to WMF in any significant way.¹⁵ 	<ul style="list-style-type: none"> • Wikimedia IN will need to register under the Foreign Contribution (Regulation) Act, 2010 and comply with annual filing requirements. WMF experience to date indicates that this can be time consuming. • The receipts of grants will be tax exempt if Wikimedia IN obtains a tax exempt status under the IT Act and utilises the amounts received from WMF for charitable purposes in India. 	<ul style="list-style-type: none"> • WMF could receive donations directly from Indian residents who can remit up to US\$200,000 per financial year or from Indian companies that can remit up to US\$5,000 per financial year, although Indian donors would not get a tax deduction on the amounts

¹² The information is in part based on counsel advice previously obtained by WMF.

¹³ Counsel have assumed that Wikimedia IN is not registered under the Income-tax Act, 1961 ("IT Act") as a tax exempt charitable organisation and hence, it cannot and has not obtained registration under section 80G of the IT Act. As a result, donors would not get tax deduction for the amounts that they donate to Wikimedia IN.

¹⁴ Counsel have assumed that Wikimedia IN is not registered under section 12AA of the IT Act as a tax exempt charitable organisation.

¹⁵ Counsel advises that if Wikimedia IN is registered as a charitable organisation and obtains a tax exempt status under the IT Act, then it would be required to utilise all its tax exempt income and contributions for charitable activities in India in accordance with its charter documents, otherwise Wikimedia IN would lose its ability to offer tax deductions. In theory, Wikimedia IN can donate up to US\$5,000 per year to non-resident entities, without requiring an approval from the Reserve Bank of India (RBI).

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
			donated.
<p>Indonesia</p> <p>Legal status of WMF's chapter in Indonesia (Wikimedia ID)</p> <p>NGO: YES (Association legalised by deed)</p> <p>Tax deductibility:</p> <p>Charitable status:</p>	<ul style="list-style-type: none"> There is a general prohibition on foreign-funded Indonesian foundations (i.e., Indonesian entities that have been set up with the help of grants from foreign entities) acting in a manner that causes loss to the public or the Republic of Indonesia. This is a vague prohibition that potentially may be used to prevent the transfer of funds by Wikimedia ID for a purpose that is seen as damaging to the interests of Indonesia. However, in practice, this is unlikely to be an issue. Money laundering requirements may apply. 	<ul style="list-style-type: none"> There is a general prohibition on foreign-funded Indonesian foundations (i.e., Indonesian entities that were set up with the assistance of grants from foreign entities) acting in a manner that causes loss to the public or the Republic of Indonesia. This is a vague prohibition that potentially may be used to prevent the receipt of funds by Wikimedia ID for a purpose that is seen as damaging to the interests of the public or Indonesia. However, in practice, this is unlikely to be an issue. 	No.
<p>Israel</p> <p>Legal status of WMF's chapter in Israel (Wikimedia IL)</p> <p>Registered organisation</p>	<ul style="list-style-type: none"> Assuming that Wikimedia IL is registered as a non-profit organization in Israel, a transfer of funds from Wikimedia IL to WMF could endanger Wikimedia IL's tax-exempt status because non-profit organizations' activities are required to be directed towards a public purpose. It is uncertain whether supporting an entity outside of Israel would qualify as a "public purpose". If Wikimedia IL is certified under Israeli law to allow donors to receive a tax credit for donations, then Wikimedia IL would be prohibited from making donations to any other organisation that is not also so certified under Israeli law. 	<ul style="list-style-type: none"> Assuming that Wikimedia IL qualifies as a public institution, it is exempt from paying income tax on the grant, and if Wikimedia IL is registered as a non-profit organization in Israel, it is also exempt from VAT law. Wikimedia IL is obliged to file annual and quarterly reports regarding the grant. 	<ul style="list-style-type: none"> Wikimedia IL could contact tax authorities to confirm that transfers of funds would not endanger Wikimedia IL's tax status.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
<p>Italy¹⁶</p> <p>Legal status of WMF's chapter in Italy (Wikimedia IT)</p> <p>APS (Associazione di Promozione Sociale)</p>	<ul style="list-style-type: none"> Wikimedia IT may only be able to transfer some of the locally collected funds to WMF because local tax authorities may object to transfers of all or substantial part of the funds, even though Italian tax law does not explicitly provide a limitation on the amounts that can be transferred. A contractual obligation to transfer the funds to WMF may also affect Wikimedia IT's non-profit status and independence from WMF. Payments from Wikimedia IT to WMF should take the form of payment for services provided. There is no gift tax on such payments, although WMF may be subject to VAT, which is the current practice followed by WMF and Wikimedia IT. Anti-money laundering laws may also impose certain requirements that need to be complied with. 	<ul style="list-style-type: none"> Whether the grant has tax consequences to Wikimedia IT will depend on how the grant is assessed under Italian tax law. More information is required to make that determination.¹⁷ Provided that grants do not exceed costs incurred, the same will likely be tax-exempted as those grants may be considered "institutional income." 	N/A
<p>Macau</p> <p>Legal status of WMF's chapter in</p>	<ul style="list-style-type: none"> The transfer of donations to WMF will not be tax deductible. However, because Wikimedia MO is incorporated as an association and most likely tax 	<ul style="list-style-type: none"> Because Wikimedia MO is incorporated as an association and most likely tax exempt, the receipt of grants from WMF will likely have no effect on the 	N/A

¹⁶ The information is in part based on counsel advice previously obtained by WMF.

¹⁷ If the grant qualifies as a gift, there will normally be no tax consequences. If the grant does not qualify as a gift, it will be taxable if the amount of the grant exceeds the costs that the grant is purported to cover (it will be seen as "consideration for services" and shall be classified as "business income"). If the grant does not qualify as a gift but the amount of the grant does not exceed the costs that the grant is purported to cover, it will not be taxable as it is considered "non-business income" (it will be seen as a "refund"). If the grant (as business income) causes Wikimedia IT's total business income to exceed its total non-business income, Wikimedia IT will lose its non-profit status. If Wikimedia IT loses its non-profit status, it will also lose its tax exempt status. In addition, VAT obligations might arise. Even if the grant (as business income) does not cause Wikimedia IT to lose its non-profit status (because its total non-business income is higher than total business income), if it receives business income worth more than €250,000, it will lose its tax exempt status.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
Macau (Wikimedia MO) Inactive chapter	exempt, the transfer of funds to WMF will likely have no effect on the taxation of Wikimedia MO.	taxation of Wikimedia MO.	
Former Republic of Macedonia Legal status of WMF's chapter in Macedonia (Wikimedia MK) NGO: YES (Citizen's Association) Tax deductibility: YES Charitable status:	<ul style="list-style-type: none"> In most cases, transfers of funds that are considered to be "donations" from Wikimedia MK to WMF will be prohibited. Such donations are only allowed to assist with natural and humanitarian disasters.¹⁸ If such transfers are not considered as "donations", there must be (i) a legal ground for the transfer, (such as a valid fundraising agreement between WMF and Wikimedia MK) and (ii) such transfers must be made only in order to achieve the goals of Wikimedia MK. Local banks may also impose further conditions on the transfers, e.g., by requiring amendments to the fundraising agreement in order to ensure that it corresponds with the relevant payment code required to make the transfer. 	<ul style="list-style-type: none"> There must be a legal grounds for the receipt of grants (such as an agreement between WMF and Wikimedia MK). Local banks may also impose further conditions on the transfer, e.g., if the legal basis is an agreement, requiring amendments to the agreement in order to ensure that it corresponds with the relevant payment code required to make the transfer. Note that there is currently no payment code for "grants" (as opposed to "donations"). Money laundering regulations may apply. 	<ul style="list-style-type: none"> Foreign organisations may act locally through an establishment of a branch, subsidiary, representative office or other subordinate corporate form. In these cases, any transfer of funds would not be a donation subject to restrictions.
Mexico Legal status of WMF's chapter in	<ul style="list-style-type: none"> Assuming that Wikimedia MX qualifies as a non-profit entity which is authorized to provide tax deductions and is itself exempt from tax, it may not normally transfer its funds to WMF without 	<ul style="list-style-type: none"> Assuming that Wikimedia MX qualifies as a non-profit entity which is authorized to provide tax deductions and is itself exempt from tax, the grants must normally be provided to Wikimedia MX on a 	<ul style="list-style-type: none"> If not the case already, Wikimedia MX's by-laws could be amended to

¹⁸ "Donations" are, among other characteristics, defined as *voluntary* and *unconditional*, and that cause no direct benefit to the donor or impose an obligation on the beneficiary of the donation. It should be considered whether transfers of funds made under a contractual obligation can qualify as "donations".

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
Mexico (Wikimedia MX) Not yet a formal entity Tax deductibility: Charitable status:	losing its tax status, unless an authorization is secured from tax authorities. <ul style="list-style-type: none"> If Wikimedia MX is registered to obtain certain aids and benefits from governmental entities, it may be further restricted to transfer funds to WMF. Assuming that Wikimedia MX is a non-profit entity, it must report any transfers of funds to Mexican tax authorities on an annual basis. 	free basis, i.e., no conditions can be imposed on the funds that would require Wikimedia MX to benefit WMF in some way or would lead to the funds being sent back to the U.S. In addition, Wikimedia MX must normally apply the grant towards its corporate purposes as set out in its by-laws. <ul style="list-style-type: none"> Wikimedia MX must also inform tax authorities of any grants of more than 100,000 pesos. 	provide that Wikimedia MX can support foreign entities recognized as charitable institutions with the same corporate purposes as Wikimedia MX. ¹⁹
Netherlands Legal status of WMF's chapter in the Netherlands (Wikimedia NL) NGO: YES (Association - Vereniging) Tax deductibility: YES Charitable status:	<ul style="list-style-type: none"> Since both Wikimedia NL <i>and</i> WMF are qualified and registered in the Netherlands as charitable institutions, the transfer of funds to WMF is exempted from gift tax as long as no obligation is connected to the funds which would deny the funds to qualify as serving the general public interest. 	<ul style="list-style-type: none"> There is no gift tax on the grants because WMF is not a Dutch resident for tax purposes. In addition, assuming that Wikimedia NL is not liable to corporate income tax (CIT), the grants it receives from WMF will not be subject to CIT and will not affect the chapter's charitable status. Whether the funds take the form of a grant or donation does not affect CIT liability. However, it will be important for Wikimedia NL to clearly determine if, and to what extent, some of its activities could create a CIT liability.²⁰ 	N/A
Norway Legal status of WMF's chapter in	<ul style="list-style-type: none"> If all or most of the locally collected funds are transferred to WMF, tax authorities may find it harder to accept that the funds are used for 	<ul style="list-style-type: none"> Income in the form of grants or donations is as a general rule considered as tax exempt income in 	No

¹⁹ Such approach should be discussed with Mexican tax authorities to avoid Wikimedia MX's tax authorization being revoked.

²⁰ The test for CIT liability is whether Wikimedia NL is running a business or competes with other businesses.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
<p>Norway (Wikimedia NO)</p> <p>NGO: YES (Registered membership organisation)</p> <p>Tax deductibility: NO (donations less than \$300 are not deductible)</p> <p>Charitable status:</p>	<p>charitable purposes and, therefore, the funds may no longer be tax exempt.²¹</p>	<p>Norway.</p>	
<p>Philippines</p> <p>Legal status of WMF's chapter in the Philippines (Wikimedia PH)</p> <p>NGO: YES (Registered non-stock, non-profit corporation)</p> <p>Tax deductibility: NO (not before 2013)</p> <p>Charitable status:</p>	<ul style="list-style-type: none"> • Money laundering laws may impose some reporting obligations on Wikimedia PH.²² 	<ul style="list-style-type: none"> • Money laundering laws may impose some reporting requirements on WMF and Wikimedia PH. 	<p>No.</p>
<p>Poland</p> <p>Legal status of WMF's chapter in Poland (Wikimedia PL)</p> <p>NGO: YES (Independent non-profit)</p>	<ul style="list-style-type: none"> • The transfer of funds from Wikimedia PL to WMF may affect Wikimedia PL's tax exempt status unless (i) WMF's charitable purposes are recognized as public benefit purposes under Polish law and (ii) those purposes are similar to the purposes of Wikimedia PL. • The transfer of funds should take the form of a 	<ul style="list-style-type: none"> • Any transaction over EUR15,000 must be made by an authorized bank and donations over PLN15,000 per transaction or PLN35,000 per year should be reported to the tax authorities annually. 	<p>No.</p>

²¹ To reduce the risk that the funds transferred to WMF will be taxable, counsel recommend that the by-laws of Wikimedia NO state that it is within Wikimedia NO's objectives and aims to support WMF with funds which WMF may only use to/for non-profit distribution of information or charity work in general.

²² Note that due to foreign currency controls, Wikimedia PH can transfer up to US\$60,000 per banking day outside the Philippines provided that an application is filled in. For transfers of more than US\$60,000, Wikimedia PH would likely need to secure the prior approval of the central bank.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
Tax deductibility: NO Funding transfers: Can transfer if certain conditions are met. Charitable status: Yes (Public benefit organisation)	grant to ensure that WMF will spend the funds on public benefit purposes recognized as such under Polish law. <ul style="list-style-type: none"> Any transaction over EUR15.000 must be made by an authorized bank. 		
Portugal Legal status of WMF's chapter in Portugal (Wikimedia PT) NGO: YES (Non-profit association) Tax deductibility: Charitable status: Not a public benefit association yet	<ul style="list-style-type: none"> Although, in principle, Wikimedia PT is allowed to enter into an agreement with WMF that would contractually require it to transfer funds to Wikimedia PT, such agreement should not require it to transfer funds to WMF to an extent that would prevent Wikimedia PT from pursuing its other objectives (and therefore risk Wikimedia PT losing its independence). It makes no difference whether the transfer of funds takes the form of a grant or donation as long as the transfer is in accordance with Wikimedia PT's non-profit projects. The transfers of funds to WMF are not tax deductible and could prevent Wikimedia PT from being corporate income tax (CIT) exempt on the portion of donations that it transfers to WMF. Donations collected by Wikimedia PT should not be transferred to WMF unless Wikimedia PT has clearly informed its donors that part of the donations may be transferred to WMF. 	No.	<ul style="list-style-type: none"> CIT liability could be avoided if WMF collected donations directly in Portugal.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
<p>Russia²³</p> <p>Legal status of WMF's chapter in Russia (Wikimedia RU)</p> <p>NGO: YES (Registered Non-commercial partnership) Tax deductibility: NO Charitable status: NO</p>	<ul style="list-style-type: none"> Transfer of funds from Wikimedia RU to WMF is possible only if there is a legal basis for such transfer, such as an agreement between Wikimedia RU and WMF, and certain formal and technical requirements are met. Wikimedia RU has informed WMF that the transfer of funds may subject WMF to 18% VAT and 12% administrative expenses.²⁴ 	<ul style="list-style-type: none"> Transfer of grants from WMF to Wikimedia RU is possible only if there is a legal basis for such transfer, such as an agreement between Wikimedia RU and WMF, the transfer is not aimed at financing a political activity in Russia and certain formal and technical requirements are met. Wikimedia RU has informed WMF that in practice Russian administration may complicate the receipt of grants in Russia due to issues with foreign currency in the country. In addition, the local banking procedures are slow and complicated.²⁵ Wikimedia RU has informed WMF that grants received by Wikimedia RU, as a non-commercial organization, are unlikely to be exempt from Russian profit tax because Wikimedia RU's purposes are unlikely to be charitable under Russian law. The profit tax is currently 20%. 	<p>No</p>
<p>Serbia</p> <p>Legal status of WMF's chapter in Serbia (Wikimedia RS)</p> <p>NGO: YES (Registered Association) Tax deductibility: NO Charitable status:</p>	<ul style="list-style-type: none"> Transfer of funds from Wikimedia SR to WMF would be difficult to achieve in practice because the current Serbian law governing cross-border donations of funds only envisages donations to Serbian entities. Banks are likely to consider a transfer of funds from Wikimedia SR to WMF as "non-feasible". 	<ul style="list-style-type: none"> Because each cross-border transaction must be "booked" under a prescribed payment code by a local bank, there remains a risk that the receipt of grants would be construed by local Serbian banks as "non-feasible", because there may not be any payment code that covers this scenario, although this risk is remote. 	<ul style="list-style-type: none"> An official opinion from the National Bank of Serbia could be obtained to ensure that Serbian banks would be able to process either a transfer of funds to

²³ The information is in part based on counsel advice previously obtained by WMF.

²⁴ If necessary, this information can be confirmed by obtaining further advice.

²⁵ *Ibid.*

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
			or from WMF.
<p>South Africa</p> <p>Legal status of WMF's chapter in South Africa (Wikimedia ZA)</p> <p>Section 21 Company (planned) Tax deductibility: Charitable status:</p>	<ul style="list-style-type: none"> Any donations to WMF will be subject to donations tax at a rate of 20% unless WMF establishes a branch in South Africa and qualifies as a tax-exempt public benefit organisation for tax purposes (PBO). Wikimedia ZA will need to make an application to the Reserve Bank requesting an approval for any transfer of funds to WMF. 	<ul style="list-style-type: none"> Any grant received by Wikimedia ZA will be tax free only if Wikimedia ZA qualifies as a PBO (public benefit organization). The conditions attached to the grant must be set out in the by-laws of Wikimedia ZA. No conditions can be attached to the grant that would enable WMF, or any person connected to WMF, to derive some direct or indirect benefit from the grant. 	<ul style="list-style-type: none"> WMF could collect donations directly from individuals resident in South Africa, who may be able to make charitable donations to non-resident charities by only filling in a form in their bank. They have an annual allowance of up to R1 million, which covers payments to foreign missionaries and the like, which may include a charity, such as WMF.
<p>Spain</p> <p>Legal status of WMF's chapter in Spain (Wikimedia ES)</p> <p>NGO: YES Counsel have assumed that</p>	<ul style="list-style-type: none"> Although there are no clear rules regarding what proportion of locally collected funds can be transferred to WMF, Wikimedia ES will need to ensure that its own costs are properly covered. In order to transfer the funds, WMF's purposes should be in line with the purposes of Wikimedia 	<ul style="list-style-type: none"> Assuming that Wikimedia ES is partially exempt from the Spanish corporate income tax because it is a non-profit organisation, grants received by Wikimedia ES from WMF will be tax exempt as long as they are not seen as remuneration for the chapter's economic activities. 	No.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
<p>Wikimedia ES is subject to the Spanish CIT as a partially exempt entity. Wikimedia ES is not subject to the special tax regime established by Law 49/2002 as Wikimedia ES is not a public-interest association.</p> <p>Tax deductibility: NO (Not before 2013)</p>	<p>ES as laid down in its constitutional documents.</p> <ul style="list-style-type: none"> Wikimedia ES must control that WMF uses the funds to develop its projects that are at all times in line with Wikimedia ES's social purposes. The funds transferred to WMF are not tax deductible. WMF is unlikely to be liable for Spanish non-resident income tax. 	<ul style="list-style-type: none"> A previous grant was done with Amical. 	
<p>Sweden</p> <p>Legal status of WMF's chapter in Sweden (Wikimedia SE)</p> <p>NGO: YES (Registered) Tax deductibility: NO Charitable status: NO</p>	<ul style="list-style-type: none"> If the funds were tax exempt when donated to Wikimedia SE, extensive accounting must be provided to prove that the funds are used for charitable purposes to which tax exemptions apply. Anti-money laundering laws might impose information requirements. 	<ul style="list-style-type: none"> The grants will not have tax consequences for Wikimedia SE if they are considered as gifts under Swedish tax law. If the grant is attached with conditions, it may not qualify as a "gift" but this will depend on the specific conditions attached. 	N/A
<p>Switzerland²⁶</p> <p>Legal status of WMF's chapter in Switzerland (Wikimedia CH)</p>	<ul style="list-style-type: none"> As long as payments to WMF do not exceed 50% of Wikimedia CH's income, the transfers should fulfil Swiss tax requirements.²⁷ Cantonal fundraising licenses/authorizations may impose further restrictions on the use of donation funds collected in the relevant canton.²⁸ 	<ul style="list-style-type: none"> It is generally irrelevant whether the transferred funds take the form of a donation or grant, however, if the conditions attached to the grants are detailed, there is a risk that the grants would qualify as compensation for services, which may be 	<ul style="list-style-type: none"> A tax ruling could be obtained from Swiss tax authorities to confirm whether Wikimedia CH's tax exempt status

²⁶ The information is in part based on counsel advice previously obtained by WMF.

²⁷ Another counsel suggested that such transfers may not be possible at all without Wikimedia CH putting its tax exempt status at risk.

²⁸ Counsel was unable to review the conditions of Wikimedia CH's fundraising licenses/authorisations, as that would require a review of all the licenses and authorisations obtained and of all applicable cantonal laws (there are 26 cantonal legislations). WMF may have similar requirements (to be determined).

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
NGO: YES (Association) Tax deductibility: YES Charitable status:		subject to VAT liability. ²⁹	would be affected by the transfer of funds to WMF. ³⁰
Taiwan Legal status of WMF's chapter in Taiwan (Wikimedia TW) Moribund chapter	<ul style="list-style-type: none"> Wikimedia TW needs to obtain a prior approval from the Department of Social Affairs (Ministry of Interior) before it can transfer funds to a foreign charity for a charity purpose. 	No.	No
Ukraine Legal status of WMF's chapter in Ukraine (Wikimedia UA) NGO: YES (Registered Association) Tax deductibility: YES Charitable status: ³¹	<ul style="list-style-type: none"> A special permit is required from the National Bank of Ukraine for any transfers of funds outside of Ukraine. Wikimedia UA may lose its special tax status if the payments are not in line with its non-profit activities. If the transfer of funds takes the form of a donation, it may be more difficult to prove that the transfer is in line with Wikimedia UA's non-profit activities. Ukrainian law allows for unilateral termination of 	<ul style="list-style-type: none"> The grants should be properly documented and such documents submitted to the bank prior to the receipt of the grants. 	<ul style="list-style-type: none"> There are several exceptions to the licensing requirement, although Ukrainian banks should be consulted prior to any transfers. The transfers may also be carried out

²⁹ More specifically, grants by WMF to Wikimedia CH will not be taxable and will not change the chapter's tax status as long as the chapter does not (i) carry out business activities; or (ii) fail to prove that its only purpose is to pursue public altruistic interests. In addition, Swiss VAT may apply if Wikimedia CH renders services/supplies to WMF in return of the grant and (i) Wikimedia CH generates a taxable turnover of more than 150,000 Swiss Francs; or (ii) Wikimedia CH has opted for VAT registration.

³⁰ Such tax ruling cannot be obtained on an anonymous basis; the specific facts of the case and the identities of the parties involved must be disclosed to the competent tax authorities.

³¹ Counsel have assumed that Wikimedia UA is properly incorporated as a non-profit public organization or charity for taxation purposes and registered as such for taxation purposes. Ukrainian tax law requires special registration of non-profit organizations and charities if they want to be exempt from corporate income tax on donations.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
	<p>agreements governing donations, e.g., in the case of material deterioration of the financial state of the party providing the donation.</p> <ul style="list-style-type: none"> The transfer of funds will have tax consequences for Wikimedia UA unless Wikimedia UA receives a duly executed and apostilled tax residency certificate from WMF prior to the transfer, which confirms that WMF is a tax resident of the U.S. 		<p>as payments for services or payment of royalties, which do not require a license but may require a price evaluation. This may, however, attract Ukrainian VAT duty.</p>
<p>United Kingdom³²</p> <p>Legal status of WMF's chapter in the UK (Wikimedia GB)</p> <p>Company limited by guarantee Tax deductibility: YES Charitable status: YES</p>	<ul style="list-style-type: none"> Wikimedia GB can only transfer funds to WMF on a discretionary basis. Therefore, if WMF were contractually obliged to send future donations to WMF, it may lose its independence and tax status. Tax authorities may deny tax deductions for donations to Wikimedia GB on the basis that Wikimedia GB is effectively acting as a nominee for WMF. To be able to transfer the funds, Wikimedia GB's objects should provide for such transfers, and its trustees should decide expressly to make such transfers and ratify this decision on a regular basis 	<ul style="list-style-type: none"> Assuming that Wikimedia's GB chapter qualifies as charity for UK tax purposes, Wikimedia GB's tax exempt or independent status should not normally be affected by the grants, as long as the grant is used for charitable purposes only, it does not impose any onerous conditions on Wikimedia GB that would restrict its independence and Wikimedia GB does not provide goods or services to WMF in return for the grant.³³ 	<ul style="list-style-type: none"> Trustees of Wikimedia GB could require WMF to enter into a binding agreement in which WMF agrees to spend the funds received from Wikimedia GB on Wikimedia GB's charitable purposes.

³² The information is in part based on counsel advice previously obtained by WMF.

³³ The trustees of Wikimedia GB may become required to refuse the funds donated from WMF if such funds would endanger Wikimedia GB's independence, for example, because the terms or conditions of the grant are contrary to the terms of the governing document of Wikimedia GB or otherwise restrict the trustee's ability to act solely in the interest of Wikimedia GB.

Country and Legal Status of Chapter	Option 1 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from transferring funds to WMF?	Option 2 Does your country have any significant legal, tax or other regulatory restrictions that would restrict the local chapter from receiving grants from WMF to support the local chapter's work?	Are there any standard mechanisms in your country to avoid such restrictions?
	<p>after having actively considered alternative uses for the funds.</p> <ul style="list-style-type: none"> • Consequently, it is recommended that only 50% of Wikimedia GB's income is transferred to WMF. • The trustees of Wikimedia GB must also ensure that the funds transferred to WMF will be spent to support the objectives of Wikimedia GB. 		
<p>Venezuela</p> <p>Legal status of WMF's chapter in Venezuela (Wikimedia VE)</p> <p>Not yet founded.</p>	<ul style="list-style-type: none"> • Wikimedia VE cannot transfer funds to WMF because it will not be able to secure a Foreign Exchange Commission authorization for obtaining foreign currency. 	<ul style="list-style-type: none"> • There are no restrictions on Wikimedia VE's ability to obtain grants from WMF, as long as the chapter is registered as a non-profit organisation and has obtained a ruling from tax authorities that it is tax exempt. 	<p>No</p>