

## Ministry of Finance announces changes in the taxation of family foundations from 2026

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On 8 August 2025, representatives from the Ministry of Finance and the Ministry of Economy announced an increase in the taxation of family foundations.

According to the Ministry's declarations, the purpose of the proposed regulations is to limit the use of family foundations for so-called "aggressive tax optimization." The proposed changes will affect all family foundations, their founders, and beneficiaries.

### Background of the changes

Initial communications from the Ministry of Finance regarding the need for changes in the taxation of family foundations emerged in 2024. In August of the previous year, the direction of the changes was presented. Although the draft of the bill was not published at that time, the government's website indicated that the planned regulations would aim to tighten the rules regarding the taxation of family foundations and expand the base for calculating the solidarity levy to include benefits received by beneficiaries from family foundations.

The proposed changes have faced criticism from the legal community and representatives of family businesses. Concerns were raised that the amendment, just one year after the enactment of the Family Foundation Act, violates the principle of trust between citizens and the state and the law-making process.

### Scope of changes announced in August 2025

The Ministry of Finance announced the introduction of the following changes into the existing regulations:

1. **Three-year exclusion from tax deferral for income from the sale of assets transferred to or contributed to a family foundation** – During this period, income from the sale of assets transferred to the family foundation will be taxed at the time of the sale, rather than upon distribution of benefits to the beneficiaries.
2. **Imposition of tax on family foundations for participation in controlled foreign companies (CFC)** – Until now, family foundations were not subject to this tax.
3. **Clarification of the taxation rules for family foundations holding shares in foreign tax-transparent entities** – This issue has been the subject of many controversies in case law, with tax authorities consistently maintaining that family foundations cannot participate in foreign tax-transparent entities.
4. **Exclusion from tax exemption for income from short-term rentals** – This issue is also the subject of ongoing proceedings before administrative courts, which consistently overturn individual interpretations issued by the Director of the National Fiscal

Information, according to which short-term rental does not fall within the scope of permitted business activities of a family foundation.

It is not planned to include the solidarity levy on benefits received by family foundation beneficiaries.

### **When will the proposed changes take effect?**

The planned date for the implementation of the new regulations is 1 January 2026. The changes will apply only to activities carried out after this date, meaning they will not have retroactive effect.

### **Comment on the proposed changes**

The proposed changes will increase the tax burden, and therefore, we view them negatively. Founders who have been planning their family foundations in a specific manner and within a specific legal framework for some time and who have already established foundations may feel deceived, unless they are covered by transitional provisions.

A key change is the introduction of a three-year period, during which income from the sale of assets contributed to a family foundation will not be exempt from tax until the benefits are paid out to the beneficiaries. This regulation aims to prevent the "transactional" use of family foundations in a way that contradicts the purpose of the law, which involves contributing assets (e.g. shares) to the foundation, followed by their rapid sale and the distribution of proceeds to the beneficiaries, which previously resulted in a tax benefit.

The introduction of an arbitrary three-year "deferral" period will essentially freeze the assets of family foundations that intended to protect and grow the entrusted assets by making capital investments in financial markets. This will also negatively affect the management of family foundations that may face an unplanned, urgent need to sell selected assets or urgently finance the needs of beneficiaries (e.g., in case of an accident or illness). Existing regulations on circumvention of the law are sufficiently strong tools to combat abuses. The introduction of a three-year period will increase the uncertainty for foundations that intend to sell assets after three years and a few days.

"Short-term rental" as a category that does not exist in the Polish legal system should also not be artificially singled out as an event with negative tax implications, especially when it constitutes a more efficient way of managing property by the family foundation.

The introduction of CFC taxation is difficult to understand, as family foundations are typically passive entities of a wealth-succession nature and are not ultimate taxpayers. CFC tax could result in family foundations losing their key characteristic as a succession instrument (the risk of unexpected CFC liabilities could discourage families with international operations from establishing foundations). The CFC tax, being a tax on "unrealized" income or assets, will affect the liquidity of family foundations and could directly negatively impact beneficiaries. Additionally, there will be increased costs for the necessary analyses and reporting, as CFC tax requires extremely complex and costly calculations.

Recent good practices have shown that tax authorities can effectively curb attempts at abuse using the general anti-avoidance rule (GAAR). Trying to combat incidental cases of misuse of family foundations through an increase in the regulation, when a specific mechanism was already designed for this purpose, does not deserve a positive evaluation.

We hope for the possibility of active participation in consultations and are happy to provide feedback from individuals planning to establish foundations as well as from those already operating foundations.

At MDDP, we have helped establish and continue to assist many [family foundations](#). Our experts are eager to share their experience with you.

**If you are interested in the above information and its impact on your business, please do not hesitate to contact us at:**

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