

**From:** Eric Schmelling

**Sent:** Friday, 16 July, 2021 4:50 PM

**To:**

**Cc:**

**Subject:** The Cooperation between the Belgian Rotary Districts and the King Baudouin Foundation

Dear District Governors and District Rotary Foundation Chairs,

Greetings from One Rotary Center in Evanston.

This message is to inform you of the conclusion which was reached by Rotary International after reviewing the arrangement between the Belgian Rotary Districts and the King Baudouin Foundation (KBF).

As you may be aware, in August 2020, the Belgian districts signed an agreement with the KBF to create the "Fonds Rotary Belgium", a named fund with the main objective to generate support for the activities of the Rotary Foundation (TRF). As the Fonds Rotary Belgium exists under the umbrella of the King Baudouin Foundation, gifts to the fund are tax-deductible in Belgium.

A thorough review of the arrangement was conducted at the request of Rotary Foundation Trustee Per Høyen to assure that it conforms to the laws of Belgium and policies of Rotary International and The Rotary Foundation. In its review, Rotary International consulted directly with the King Baudouin Foundation, several Belgian Rotarians, and independent Belgian legal counsel with expertise in both Belgian tax law and the non-profit sector.

After reviewing the arrangement, independent legal counsel advised that it is in compliance with Belgian law.

Rotary International also determined that the arrangement is consistent with Rotary policy.

More background information about these conclusions and how they were reached can be found in the attached document.

Moving forward, in order to ensure that operating procedures and future communication with regard to this arrangement are better understood, The Rotary Foundation will work directly with the King Baudouin Foundation, the four Belgian Rotary district and the Management Committee of the Fonds Rotary Belgium starting in the 2021-22 Rotary year. More details will be made known in due course.

We thank you for your patience in these last months, as this review needed to be done with care and deliberation in order to ensure that the conclusions reached were accurate.

With kind regards,

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cc. Regional RI Directors, TRF Trustee, RRFs, E/MGAs.

# Review of the cooperation between the Belgian Rotary districts and the King Baudouin Foundation (KBF)

## – Background information –

July 2021

### Named funds & the KBF

- The KBF is a public interest foundation governed by Belgian law, recognized by Royal Decree of 29 December 1975. Its articles of association state that it may create funds with specific purposes. The KBF can accept donations and legacies with the task of managing or redistributing them.
- Named funds are not juridical persons or legal entities. They are an integral part of the KBF. Gifts to named funds are a gifts to the KBF and tax receipts for donations are issued by the KBF. The legal responsibility for how these gifts are used lies with the KBF, which currently has hundreds of named funds under its umbrella, many of which support international causes, for example in Europe, Africa, Asia and North-America. Named funds can support both specific projects or general funds and programs of other organizations.
- Management committees of named funds may allocate available funds to different causes according to – and within the limitations of – agreements signed with the KBF. The management committees of such funds can be separate from the governance bodies of the KBF.
- Before the Fonds Rotary Belgium (FRB) was created, the KBF examined the funds and programs of the Rotary Foundation that this named fund was intending to support. These include PolioPlus, the World Fund/Annual Fund, the Disaster Response Fund, the Endowment Fund/Permanent Fund and Global Grants. The KBF found these funds and programs to be in line with its own mission as a global player in the philanthropic sector, which is a requirement in order to receive support. The KBF considers TRF, whose general operational expenses are below the 20% threshold set for charities by Belgian regulation, to be a reliable and proper recipient of funding from the FRB.
- The FRB is not considered a mere pass-through to support TRF because:
  - Contributions to the FRB are legally and irrevocably owned by the KBF, which records them as income.
  - Even though the Management Committee of the FRB may respect the wishes of donors, who may indicate which cause or program they would like their gifts to support, the committee is not obligated to do so and retains the power to ultimately decide on the transfer of the donations and to deny such transfer, for example if it would not be in accordance with the fund's charitable purpose.
  - In spite of the decisions of the Management Committee, the KBF retains authority to intervene in the distribution of funds from the FRB should there be just cause to do so.

## **TRF Donor Recognition - Compliance with Belgian charitable tax law**

- TRF provides recognition items of de minimis value to its donors. Belgian law, similar to laws of other jurisdictions, including the United States, limits the way a charity can show its appreciation to donors for charitable contributions. However, recognition items of de minimis value such as those provided by TRF do not fall within these restrictions.
- The Rotary Foundation operates donor recognition programs that bestow “membership” in named “societies” to donors at certain levels. For instance, donors who commit to donating at least US\$ 1,000 per year to the Foundation are recognized as members of the Paul Harris Society. Such recognition societies are meant to encourage charitable giving and bestow no true benefits. Charitable contributions are not membership fees.
- Recognition items and membership in giving societies are not of material value to recipients, but merely symbolic in nature.
- Donor recognition/fundraising events are meant to thank, inform and engage existing and future donors. As such, they are a proper tool for charities to interact with their donors.

## **RI Policies: Multidistrict activities, projects and organizations**

- The Rotary Fonds Belgium, as a fund of the KBF, has none of the hallmarks of a multidistrict entity as provided in the RI Code of policies as it is a fund of the KBF and not under the legal umbrella of the Belgian Rotary districts. Therefore, the RFB is not subject to the requirements of a multidistrict entity.