

ESTATE PLANNING: UTILIZING PRIVATE FOUNDATIONS FOR CHARITABLE PLANNING

Many clients are interested to benefit charitable or educational institutions that have been influential in their lives or have a special meaning personally to their family as part of their estate plan without any regard to tax planning motivations. Some will simply provide a specific sum of money to their organizations of choice and incorporate this as a specific bequest within their Will or Trust. Many have expressed a desire to establish a fund of assets that could be granted to organizations, which can be systematically reviewed and amended, to be made over many years and to which a longer family legacy can be established. A private foundation incorporated as part of the estate planning may be a perfect fit for such a family.

A private foundation is an entity that generally qualifies for income tax, gift tax and estate tax exemption. The entity is usually a form of corporate entity that is organized within the state of where the client resides, or it may also be a trust in certain situations. The tax exemption is applied for by filing a Form 1023 with the Internal Revenue Service. Private foundations are privately operated by those managing the foundation (usually a Board of Directors or Trustees that are often comprised of the family members and those close to the family), as opposed to being controlled by the charitable organizations that may benefit from the foundation.

The Board of Directors or Trustees of the private foundation may control the investment and disbursement of funds to the charitable organizations. The charitable organizations to receive distributions may also be selected and amended based upon the type of organizations that the family may favor from time to time. Many clients see this type of charitable giving as an advantage as the family maintains control for a longer period of time over donated funds. However, there are some requirements regarding the distributions from the private foundation, such as five percent (5%) of the fair market value of the assets of the foundation must be distributed on an annual basis to qualified public charitable organizations, to ensure that these do not go on in perpetuity.

There are other legal requirements that must be reviewed and closely followed when operating a private foundation. These can be discussed with your advisor if the private foundation seems like a good way to complete your charitable giving goals.