

## PRIVATE FOUNDATIONS

What is a Private Foundation? Private Foundations are just what the name implies. It is an entity (charitable organization) created to provide funds for charitable endeavors (philanthropic purposes). Usually established as either a nonprofit corporation or as a charitable trust, it is created privately by an individual, a family, or a group of individuals.

The most common form of a Private Foundation is as a “Private Endowed Foundation.” The principal or assets of the entity are considered an endowment that is invested, and income is then paid out annually to charity. Generally, the principal or endowment is not spent, only the investment income. The law requires that at least 5% of the value of the assets on an annual basis is to be distributed. This means that with good management the principal assets can increase in value and at the same time distributions made on an annual basis ensuring the viability of the foundation to continue.

Less common types of private foundations are “Pass-Through Foundations” and “Private Operating Foundations.” A “Pass through foundation is a private grantmaking organization that distributes all of the contributions it receives each year, not just 5% of the value. A “Private Operating Foundation” actually funds and operates its own charitable programs.

Establishing a Private Foundation should not be done without much thought and personal education about what is involved. Although there are significant tax benefits for supporting charitable endeavors, a foundation should not be established just because of the tax benefits. The tax laws are intricate and rules and legalities must be followed. The Council on Foundations has various publications available to assist in the process. Additional considerations before establishing a Private Foundation are:

1. How much administration and management do you wish to take on yourself or do you want to delegate?
2. Is family unity one of the motivations?
3. What degree of control do you want to have over the principal of the foundation?
4. Is philanthropy important to you?
5. Have you established a mission statement?
6. Have you contemplated just what charitable endeavors you want to be involved with and support?

Of course, every dollar contributed to a Private Family Foundation is one less dollar that is included in your estate for estate tax purposes. If you have a taxable estate (currently more than \$2,000,000 in value), then dollars provided for charitable purposes may save nearly 50% in estate tax. In essence, you get to self-direct the full dollars without any going to Washington for Congress to direct how it is used.

As an alternative, many people consider giving funds in a fashion referred to as “Donor advised” funds to a community or other larger or national foundation to avoid the complexity and cost of establishing a private foundation. This is much easier to establish and far less expensive. One of the benefits is that the donor does not have to create an entity or comply with the operating rules. Further, generally experienced managers invest the funds and simply make distributions to charities as they are directed. Some potential taxes on investments are avoided in this situation as opposed to a Private Foundation that must pay an excise tax on certain investment income. Generally, with a “donor advised fund” anonymity can be maintained in the charitable giving if that is important.

Usually a Private Family Foundation is created when there is a true philanthropic desire, a further desire to involve family members in the charitable giving process, and significant asset value is involved.

We hope you find this helpful. Every situation is unique. Please get advice from a knowledgeable estate planning attorney before determining how a Private Family Foundation or Donor Advised Funds might benefit you or your family.

**Tim J. Larson, JD, PA. has its offices in Wichita, Kansas. Tim J. Larson and Logan M. Brown are members of Wealth Counsel, the Wichita Estate Planning Council, and *e.Planners*, a select group of nationally known and recognized Estate-planning Attorneys.**