Benefits of Giving While You’re Still Alive

Philanthropy is an endeavor that seems particularly ripe for procrastination. After all, it is a very rare person who, upon waking every morning, feels a compelling urgency to get up and give money away.

“People with the resources to have their own foundation tend to be very busy, active sorts, and while they want to proceed with their philanthropic planning, it’s not always at the top of the list. I’ve seen people think about it for years before acting. Some never pull the trigger,” observes Andy Bewley, an advisor in Aptos, California. But while there may be good reasons to postpone funding a foundation until death, tax planning is not often one of them. “Good tax planning,” involving the use of lifetime gifts to a private foundation, “can double the amount a donor has available for charity, and still leave more for the children,” says Barry Bondroff, CPA, a partner in the Baltimore accounting firm Gorfine, Schiller & Gardyn.

In addition to the financial benefits, there are other advantages as well. Three major potential benefits from beginning a philanthropic program such as a private foundation during a donor’s lifetime are personal satisfaction, the ability to shape a legacy, and the ability to exert control both during and after life.

Personal Satisfaction

One reason donors start foundations when they are still alive is that they enjoy the gratitude people express to them for their generosity. Donors who wait until they die to make contributions won't see the effects of their generous gifts and certainly won't be able to acknowledge the thanks from those they helped. Of course, receiving kudos is not the only reason for making donations while still alive, but it can be an enjoyable one, even though it is rarely mentioned out loud, or in public, by donors.

Many donors start foundations during their lifetimes so that they, along with their charitable causes, may enjoy the positive changes brought about by their giving. For example, Michael Milken, a famous name in finance in the 1980s, set up the Milken Family Foundation in 1982. His father suffered from melanoma, and Milken from prostate cancer. This led to Milken's multi-hundred million dollar commitment to fighting cancer.

Fortune magazine has called him *The Man Who Changed Medicine* for his efforts. The magazine reports:

> Milken has, in fact, turned the cancer establishment upside down. In the time it normally takes a big pharmaceutical company to bring a single new drug to market, Milken has managed to raise the profile of prostate cancer significantly, increase funding dramatically to fight the disease, spur innovative research, attract new people to the field, get myriad drugs into clinical trials, and, dare we say, speed up science. Milken's philanthropy, the Prostate Cancer Foundation, has raised $210 million from its founding in 1993 through 2003, making it the world's largest private sponsor of prostate cancer research. That all-fronts effort, say numerous experts interviewed by *Fortune*, has been a significant factor in reducing deaths and suffering from the disease.

Create a Legacy

Some people care about being remembered after death and some people don't. But, if being remembered is important to you, as it is for many donors, starting a foundation early gives you a chance to explore a rewarding second career as a philanthropist and to create a legacy.

Here's a trivia question for a cocktail party: What do John D. Rockefeller, Andrew Carnegie, and Julius Rosenwald have in common? If you don't know, you're not alone. In the 1930s, Rosenwald, Rockefeller, and Carnegie were the "Big Three" of philanthropy. Rosenwald was a philanthropist on the same scale as Rockefeller and Carnegie. So what happened to Rosenwald? His foundation spent itself out of existence, as he wished, and now it is not making any contributions to anything. But while virtually everyone recognizes the names of Rockefeller and Carnegie, few people today have ever heard of Julius Rosenwald.

Rosenwald required that his foundation spend itself out of existence within a relatively short period following his death, which occurred in 1932. Rosenwald most likely chose to eliminate the existence of his foundation because he didn't trust those who would be running it after he died. He once said, "It is easier to make $1 million honestly than to give it away wisely." Rosenwald's foundation spent all its money rapidly.

Concentrating on the education of poor black children, mainly in the South, the foundation built many schools. For example, in Prince Georges County, Maryland, it built 23 schools. Just nine still survive.

In addition to forgoing a legacy, another problem with Rosenwald's method of giving the foundation an expiration date is the perverse incentive it creates to spend the dollars quickly, but not necessarily in the smartest way. If you've got to shovel money out the door, it is tough to do it well.

John M. Olin, the head of a family chemical and munitions manufacturing business, who died in 1982, avoided the problem by giving his directors flexibility. The John M. Olin Foundation was scheduled by Olin to go out of business in the 1990s, at about the time those trustees who best knew his philanthropic ideals were aging and retiring. The plan was to give away all the money and close the doors. But Olin's will didn't force them to spend recklessly. The will allowed for flexibility when deciding on an appropriate date to close the foundation's doors, thereby enabling the trustees to use discrimination and care when making donations. During the 1990s bull market, faced with the "problem" of soaring investment returns, which made giving away all the money even more difficult, the directors chose to stay in business longer rather than throw huge sums of money at institutions that might not be prepared to use them wisely. The John M. Olin Foundation finally made its last grant in 2005, and closed its doors that year, just as John M. Olin had intended.

While some foundations seek to spend themselves out of existence, the more common course—and in the long run the more prudent and beneficial course for both donors and charities—is to spend only the required 5 percent of assets each year. Because long-term investment returns tend to be above 5 percent, this allows both assets and annual giving to grow. Note that because of the mathematics of investment returns, and the effects of inflation, if a foundation does not grow, it is doomed to give less and less, after inflation, every year, until it finally vanishes.

The Problem with Waiting

A donor can greatly increase the benefits to himself, his charities, and his family by creating a foundation while he is alive. These benefits include the opportunity to establish a track record that allows heirs and successors to work with the donor and learn first-hand how he approaches philanthropy.

Those who know the donor during his lifetime will know how the donor wants the foundation to perform when he is no longer able to guide it himself. Then, after the donor's death, the successors can use the track record to guide the continuation of the foundation.

A donor who fails to develop a sufficient pattern of giving during his lifetime is faced with the challenge of developing an explicit and appropriate mission for his foundation, one that is specific enough to be a guideline for family members or trustees, but flexible enough to allow for social and economic changes that could potentially conflict with the founder's mission.

Donors' missions range from specific to vague. James B. Duke, who earned his fortune through the American Tobacco Company and Duke Power, is perhaps best known for the university that now bears his name. The university is only one of the many institutions he helped create by being tremendously specific. He created a foundation and funded it with shares of Duke Power that could not be sold without unanimous consent of the trustees. He went on to specify how the foundation's income should be distributed: 32 percent to Duke University, 32 percent to hospitals in the Carolinas, all the way on down to a requirement that the foundation spend 2 percent on supporting retired preachers and their families.

Other philanthropists, such as John D. MacArthur, who earned his fortune in the insurance industry, left minimal guidance. When he died in 1978, he left his foundation no instructions other than the legal requirements that the money be used for qualified exempt purposes.

When the donor leaves no clear no pattern of lifetime giving, even instructions he leaves, such as in a will, can be too vague, and his intentions easily misconstrued. But being overly specific creates the risk that conditions will change enough after a donor's death to make his directions impractical. Some philanthropists believe they can avoid such problems by having their foundations spend their money within one generation after the founders' death. For other founders, this is unacceptable, especially if they want the foundation to exist in perpetuity and continue to do good for many generations to come.

From the Grave: Control—But Not Too Much

Sometimes, in the early stages of thinking about their new foundations, founders will be concerned about specifying exactly what their foundations should and should not do, particularly after they are gone. However, this is one of those initially attractive ideas that can turn out to be a mistake.

Often founders do not realize the limited framework of their assumptions when they specify rigid missions for their foundations. It is impossible to accurately predict a century's worth—or more—of social and economic trends and technological innovations. Yet some founders build a highly detailed plan for their foundation without due regard for the unforeseeability of the future. A donor today, for example, could plan to have his foundation help find a cure for a specific debilitating disease. But once that cure is found, due to the rigidity of the founder's plan, there is no longer an outlet for the foundation's largesse.

Consider, for example, the case of Bryan Mullanphy, mayor of St. Louis in the late 1840s. In the early 1800s, many homesteaders heading west in their covered wagons became stranded in Missouri, without enough money to return home or to continue westward. A St. Louis resident, Mullanphy established an endowment in 1850 to help worthy travelers in covered wagons continue west. Failing to anticipate that technology might make the covered wagon obsolete, Mullanphy didn't see that he was creating a problem. As the number of covered wagons declined, opportunities to carry out the foundation's mission also declined. With grants down, the endowment grew. Eventually, Mullanphy's will was challenged. It became necessary to spend a great deal of money on legal proceedings before the court finally ruled that the money could be spent to help all types of travelers in St. Louis.

Or, consider the case of Stephen Girard. In 1831 he endowed an orphanage in Philadelphia and named it Girard College. He specified that the orphanage was to take in white boys aged 6 to 10 who could produce birth certificates as well as parents' marriage certificates, to prove they were not illegitimate. The boys would live at the College until they were 14 to 18 years old.

By the end of the twentieth century, not only was the number of orphans declining (as health care improved and life spans increased), but adoption and foster care were also taking the place of orphanages. Furthermore, Girard's instructions excluded girls, children born to single mothers, and nonwhites—leaving few takers for the 300 places in the orphanage. Of course, finally, in 1968, the U.S. Supreme Court amended the will to strike the *"poor, white, male orphan"* provision. But Girard College was unable to adapt to societal changes for the 138 years that the original will was in effect.

These examples illustrate some pitfalls of overly specific instructions for charity. But what of the other extreme—simply telling your trustees to do good things with your money, as Rockefeller did when he directed his foundation to "promote the well-being of mankind throughout the world"?

What about Too Little Direction?

There are a number of famous philanthropists who left vague instructions upon their deaths. The subsequent successes or failures of their foundations can be attributed to one factor: whether or not they also left an extensive track record of their philanthropic involvement.

John D. Rockefeller, Sr.'s instructions about the "well-being of mankind" must be among the most general instructions ever left. Yet his successors were hardly in the dark. The elder Rockefeller, having devoted so much of his life to active philanthropy, left an extensive track record. It seems certain that Rockefeller would, on the whole, be pleased with the great accomplishments his foundation has achieved since his death.

The same may not be said of John D. MacArthur and Henry Ford, both of whom left major fortunes in foundations to be administered after their deaths. MacArthur and Ford left very little in the way of either lifetime examples or of clear instructions. As a result, their foundations have at times been accused of funding programs actually antithetical to their founders' interests and desires. Some people in the philanthropy business—especially those on the conservative end of the political spectrum—have seized on these and other examples as evidence of a need for philanthropists to take stronger steps to preserve "donor intent." But sometimes there is very little evidence of what the donor wanted, beyond the obvious tax benefits.

For example, when Henry Ford created the Ford Foundation, he made clear that he had no interest in philanthropy; the foundation was simply a way to avoid estate tax and retain family control of the Ford Motor Company. After he died, the first trustees of the Ford Foundation searched for some guidance from the donor, but in vain. And because he had no track record, conflicts between the foundation's trustees and Ford family members eventually ensued. The Ford Foundation sold the last of its Ford Motor Company stock in 1974, and in 1977, Henry Ford II resigned from the Ford family foundation, accusing it of demonstrating an antibusiness bias through the projects it funded. Today there is little connection between the Ford Foundation and either the automobile company or the family.

In another example, Neal Freeman, an advisor to the wealthy and a strong advocate of respect for donor intent, has complained that the only thing uniting the recipients of the MacArthur Foundation "genius grants" is that the "selection of each would have embarrassed John D. MacArthur." Whether that's true is impossible to know with certainty, because MacArthur's philanthropic guidance to his foundation directors consisted of these words: "I made the money. You guys will have to figure out what to do with it." Since MacArthur was not involved in charitable activities while he was alive, he left no trail of grants to guide the foundation's trustees. So while MacArthur was a political conservative during his lifetime, there is no evidence on which to build a persuasive case that he intended his foundation to somehow please conservatives. MacArthur most likely misplaced confidence in the initial board of the foundation—which according to Neal Freeman, "consisted primarily of Chicago social ornaments"—assuming that they would somehow discover his intentions for the foundation. But, says Freeman, forming assumptions about MacArthur's intentions, based on painfully little evidence, proved to be a daunting task for the trustees.

William E. Simon, a well-known conservative who was secretary of the treasury in the Nixon administration, served briefly on the foundation's board. He found the experience on the MacArthur board "the most frustrating of his life," according to Freeman, because as a conservative aware of MacArthur's conservative views, he was unable to bring the board to the view that the foundation should advance conservative views. (Simon also served on the board of the John M. Olin Foundation and found it a far more congenial experience.) MacArthur preferred to concentrate almost entirely on business during his lifetime. But his failure to develop a philanthropic tradition himself means that the current mission of the MacArthur Foundation does not reflect its founder's beliefs.

William Simon was himself an important philanthropist, and his own actions shed light on the difficulty of gauging the philanthropic desires of someone without direct evidence. In addition to serving as treasury secretary, Simon was a very successful businessman. His son, William E. Simon, Jr., credits him with developing the leveraged buyout. He gave away an estimated $30 million during his lifetime and in 1998 announced his intention to devote his fortune, estimated at about $350 million at his death in 2000, to various charities, including AIDS hospices and education for low-income groups. How many people, knowing that Simon was without doubt a staunch political conservative, would, if placed on the board of the William E. Simon Foundation and given no guidance as to Simon's preferences, have allocated funds to AIDS hospices and education for the poor?

Between the Scylla of being too restrictive and the Charybdis of being too vague, how is a donor to specify what his foundation should do after he dies? That depends largely on a donor's goals and wishes. If a donor's mission is vague, he should make sure that his philanthropic goals are specified during his lifetime, either by developing a track record or by spelling out a few general principles in the founding documents and appointing his children or trusted (and younger) friends as directors. But if a donor's mission is quite specific—say, to secure greater recognition for Lithuanian church architecture, enable disabled sculptors to go to art school, or provide scholarships for Armenian-Americans to attend a law enforcement academy—the donor needs to find directors who share their passion or at the very least can be trusted to carry out those wishes.

A potential alternative for some people is a "field of interest fund" with a community foundation. A field of interest fund is created by a community foundation with the goal of attracting funds from donors who want to fund a particular area, but don't want to give away all the money immediately and don't want the burdens—or benefits—of control. For example, the New York Community Trust offers such funds in the areas of drug-abuse prevention, teen pregnancy prevention, and helping poor young artists, among others. They do the work of selecting recipients, according to their views of what is most beneficial, given a donor's guidelines. The gifts can bear the name of the original donor. "The advantage of a field-of-interest fund is that it keeps up with the times,'' says the Community Trust. "The arts will always depend on private philanthropy, and we'll always have to be concerned about our young people. But today's youth problems weren't around forty years ago, and neither were the many exciting young arts groups that have sprung up all over the City. Rather than locking your charitable contribution into a few specific charities, a field-of-interest fund will always be able to meet contemporary needs."

Who Gets Control?

It is extremely important that a donor consider her relationship with her family or with her trustees when deciding how specific her foundation's mission should be. For example, if the family has a close, harmonious relationship and the donor trusts her children's (or grandchildren's) judgment, she may simply want to appoint them as directors, with no restrictions on what they may do after her death. This approach avoids the pitfalls of overrestriction, since any constraints will not only bind children, but could also bind generations to come.

However, if a donor's family is not close, or if the children don't get along with each other, or the donor has no children or other close relatives and does not intend to disburse the foundation's money before death, then the donor will need to give more thought to who successors will be.

Sometimes the choice is not that difficult. Claude R. Lambe, a dedicated philanthropist and conservative from Kansas who died in 1981 leaving no children, did have a trustworthy friend who was and is a prominent philanthropist in his own right. The friend, industrialist Charles G. Koch, Chairman of Koch Industries, the largest or second-largest privately held company in the United States according to *Forbes* magazine, shared his libertarian beliefs and was a generation younger. Some 20 years after Lambe's death, Koch, along with his wife and some business associates, continues to run Lambe's foundation. Because Koch and Lambe had similar philosophies and knew each other well, Koch doesn't need to waste time wondering what Lambe would have wanted to do with his foundation's money. Lambe, for his part, obtained the executive services of one of America's greatest entrepreneurs for his foundation.

When choosing a foundation's successors, a common assumption is that good business associates will be good foundation board members. Randy Richardson, who spent 20 years as president of the Smith Richardson Foundation (created out of the Vicks Vapo-Rub fortune), a major supporter of higher education and a variety of think tanks, warns against making this assumption. He offered the following advice in *Philanthropy* magazine. "You doubtless have bright business associates. Resist the urge to decorate your beginning board with such folk unless they share your objectives and match your enthusiasm for whatever philanthropic endeavor you choose. There are many business executives whose conduct on charity boards betrays an apparent belief that activities outside business do not merit the full use of their brains. These men and women frequently join a foundation board for the sole purpose of having it fund their favorite charities, thereby enhancing their reputation as fund raisers."

Conclusion

The best approach, whether leaving a foundation in the hands of family or of trustees, is to take an active role in philanthropy while still alive and leave the funds relatively unrestricted after death. This gives the foundation's directors flexibility to respond to changing conditions, while they are always guided by the example set by the founder.

It is always a good idea for founders to state their missions clearly and to spell out values and principles. The trick is to be specific about the vision, and yet flexible about how to achieve it, so that the successors can carry that vision forward despite changes in society and technology.

We cannot overemphasize the value of donors creating a coherent body of precedents by giving during their lifetime. This is the key to sustaining the foundation's mission after the founder's death. There are too many instances in which individuals have waited until their death to create their foundations, only to leave family members and descendants wondering how they should use the money to best honor the beloved deceased. How can the successors know for sure? They can't, unless there were prior actions behind the words.

An established pattern of philanthropy during a donor's lifetime becomes a guide for his family. There is no better way to assure a foundation's future than starting a foundation now, building a solid history of giving, and involving family or others—or both—so that they are prepared for their eventual role in advancing the foundation's mission and goals.

This will not only develop patterns of behavior to guide heirs after a founder is gone, but it will also build good working relationships among the successors. These steps will ensure that a foundation's legacy is one of which the family—and especially the founder—can be proud.

“A copy…should be in the library of every philanthropist and foundation.”

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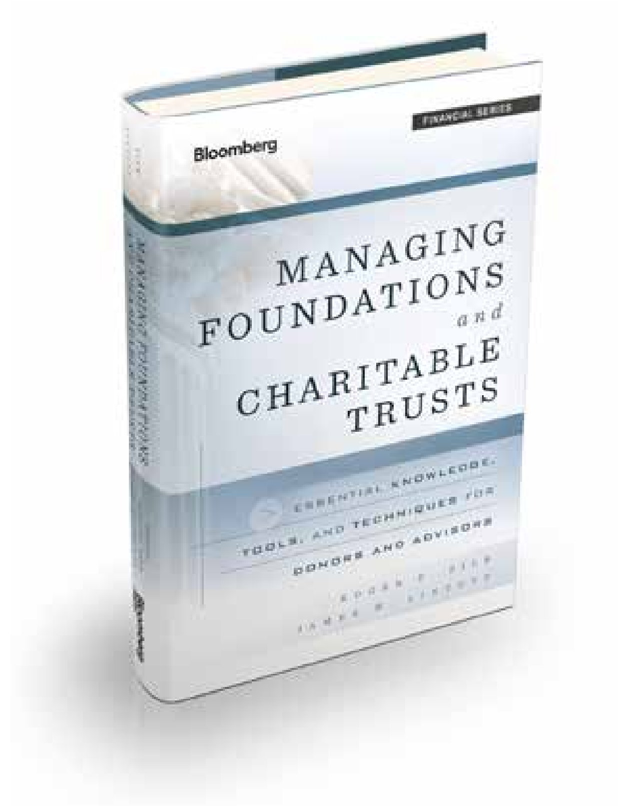

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