

# Philanthropic Strategies:

*"Where Does My Organization Fit?"*

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# Philanthropic Strategies

## PRIVATE FOUNDATION OR PUBLIC CHARITY

Every section 501(c)(3) organization is classified as either a private foundation or a public charity. *Private foundations and public charities are distinguished primarily by **the level of public involvement** in their activities.*

- Public charities generally receive a greater portion of their financial support from the general public or governmental units, and have greater interaction with the public.
- A private foundation, on the other hand, is typically controlled by members of a family or by a small group of individuals, and derives much of its support from a small number of sources and from investment income. Because they are less open to public scrutiny, private foundations are subject to various operating restrictions and to excise taxes for failure to comply with those restrictions.
- Under the tax law, a section 501(c)(3) organization *is presumed to be a private foundation* unless it requests, and qualifies for, a ruling or determination as a public charity. Organizations that qualify for public charity status include churches, schools, hospitals, medical research organizations, *publicly-supported* organizations (i.e., organizations that receive a specified portion of their total support from public sources), and certain supporting organizations.

# Philanthropic Strategies

## PRIVATE FOUNDATION

### Definition

- A non-profit, tax-exempt, legal entity organized exclusively for charitable objectives consistent with donor's philosophy and interests
- Don't assume that an organization with "foundation" in its name is actually an IRS-designated foundation.

### Process

- Receive immediate tax deduction for contributions, subject to certain IRS limits
- If funded with stock, receive income tax deduction for fair market value of stock without recognizing capital gain

### Key Features

- Established as trust or corporation
- 5% IRS-mandated annual distribution
- Managed by
  - Board of directors if corporation
  - Trustees if trust

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## PRIVATE FOUNDATION

### Private Foundations

- Tax-exempt legal entity in form of a trust or a nonprofit organization
- Typically have a single major source of funding
- Primary activity is the making of grants to other charitable organizations and to individuals, *rather than the direct operation of charitable programs.*
- Donor retains maximum control over
  - Investment decisions and grant-making (subject to self-dealing rules)
  - Trustees or board, can employ family members as staff
  - Charitable interest—broad or specific
- Can terminate at a future point in time or establish in perpetuity
- Must file detailed and public tax returns

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## PRIVATE FOUNDATION

### Advantages

- Exercise continuing control over when and which charities receive benefits
- Allows contributions to qualify for gift, estate and income tax deductions
- Can diversify foundation without incurring capital gains tax
- Establishes legacy of giving for a family
- Acts as charitable remainder beneficiary of charitable remainder trust
- May pay Directors or Trustees reasonable compensation for their services
  - Including donor and members of donor's family

### Considerations

- Extensive regulatory and compliance issues
  - Administrative and annual reporting requirements
  - Qualification of grant recipients and minimum distribution guidelines
- Selection of trustees and directors is critical
- Subject to tighter limits on allowable tax deductions for charitable contributions

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## PUBLIC CHARITY

### Public Charity

- Generally, organizations that are classified as public charities are those that:
  - Are churches, hospitals, qualified medical research organizations affiliated with hospitals, schools, colleges and universities, e.g., Red Cross, YMCA
  - Have an active program of fundraising and receive contributions from many sources, including the general public, governmental agencies, corporations, private foundations or other public charities,
  - Receive income from the conduct of activities in furtherance of the organization's exempt purposes, or
  - Actively function in a supporting relationship to one or more existing public charities.
  - Provide a direct service, not a conduit to other charities

# Philanthropic Strategies

## PUBLIC CHARITY

### Advantages

- Public charities have higher donor tax-deductible giving limits
- Have the ability to attract support from other public charities and private foundations
- Public charities have 3 possible tax filing requirements, depending upon annual revenue
  - Form 990 (> \$200,000)
  - Form 990-EZ (\$50,000 – \$200,000)
  - Form 990-N e-postcard (<\$50,000)

### Considerations

- IRS requires certain language to be in a public charity's articles of incorporation, explicitly restricting its activities to direct, charitable activity
- Public charities must have a diversified board of directors
  - More than 50% of the board must be unrelated (via family or business)
  - Although not explicitly stated by the IRS, best practices are that not more than 50% of the board are compensated

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## ENDOWMENT

### Definition

- A financial asset in the form of a donation made to a non-profit group or institution, that is used to pay for its creation and/or its continuing support
- Typically hospitals, secondary schools, colleges and universities, social service and cultural organizations

### Four Types of Endowments

- *Term endowments*: usually stipulate that only after a period of time or a certain event can the principal be expended
- *Unrestricted endowments*: assets that can be spent, saved, invested, and distributed at the discretion of the institution receiving the gift
- *Quasi-endowment* : a donation by an individual or institution who give the gift with the intent of having that fund serve a specific purpose
- *Restricted Endowment*: the principal is held in perpetuity, while the earnings from the invested assets are expended per the donor's specification

# Philanthropic Strategies

## CORPORATE GIVING

### Two general formats

#### Company Sponsored Foundation:

- Separate legal entities, maintain close ties with the parent company, and their giving usually reflects company interests.
- may be private foundations or public charities

#### Direct Giving:

- No separate legal entity, so not subject to laws governing exempt organizations, including public disclosure requirements
- Typically do not have an endowment
- Often used to support programs that do not fall within the guidelines of the company-sponsored foundation



# Other Resources

- **Council on Foundations** is a national nonprofit membership association whose members' collection assets exceed \$300 billion. We provide our members with services and support to help them succeed. We emphasize the value of philanthropy in the lives of people everywhere. [Cof.org](http://Cof.org)
- **Grant Management Associates** provides grant makers with a full palette of services, from strategic consulting and impact analysis to grant making, administration and organizational support. Our work encompasses diverse sectors, reaches local and international communities, and spans decades of change. [Grantmanagementassoc.com](http://Grantmanagementassoc.com)
- **The Philanthropic Initiative, Inc. (TPI)** is a nonprofit advisory team that designs, carries out and evaluates philanthropic programs for individual donors, families, foundations, and corporations. Since it was founded in 1989, TPI's goal has been to help clients to invest in their own values, communities and societies for maximum impact. [Tpi.org](http://Tpi.org)

# Biography

## **Michael A. Janko**

Director, Endowment and Foundation Group  
Senior Portfolio Manager

Michael is director of BNY Mellon Wealth Management's Endowments and Foundations group and is a senior portfolio manager. He is responsible for managing endowment, foundation and charitable portfolios with a wide range of objectives and provides guidance and assistance in the determination of appropriate investment strategies. As director of the Endowments and Foundations group, Michael works with portfolio managers and other team members to assist in meeting the overall investment, fiduciary and administrative needs for each client.

In addition, Michael is a regular speaker at seminars on investing for non-profits.

Michael joined the firm in 1997 and has more than 25 years of experience managing charitable client portfolios. His previous experience includes several management positions for wealth management firms, most recently having acted as portfolio manager for SunTrust Investments.

Michael earned a bachelor's degree from Suffolk University and a master's degree from Suffolk University's Sawyer Graduate School of Management. His community involvement includes working with a local non-profit seeking to increase opportunities for at-risk youth.

# Disclosure Appendix

The information provided is for illustrative/educational purposes only. All investment strategies referenced in this material come with investment risks, including loss of value and/or loss of anticipated income. Past performance does not guarantee future results. No investment strategy or risk management technique can guarantee returns in any market environment.

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