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Navigating charitable giving during estate planning process

Options include private family foundations, donor-advised funds and charitable trusts

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While multi-million dollar endowments and large charitable gifts often get the most attention, thousands of individuals each year make estate planning decisions about how their wealth will be distributed.

That could mean creating a private family foundation, a donor-advised fund or even a charitable trust. Each represents a very different option with different advantages to the donor.

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>
> **ROBERT INGRASCI,** tax partner, Lumsden & McCormick LLP CPAs

Robert Ingrasci is a tax partner with Lumsden & McCormick LLP CPAs specializing in estates and trust planning with a focus on char-itable planning techniques. He says the first step is understanding the client's level of interest in the short term and the long term.

"When we start the process with our clients for estate planning, we try to find out what their ultimate goals are," he said.

While they all may want to help a favorite charity or support an important cause, they may not have the time to spend on administrative functions or may not have future generations with the time or desire to carry on those wishes.

Charitable trusts

A charitable remainder trust creates an annuity payment for an individual or individuals over a pre-de-

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termined term, with the remainder provided to a charity or going toward a donor-advised fund. This arrangement provides for a sibling or a child, while allowing the donor to also accomplish a goal of funding a charity.

A charitable lead trust, in contrast, gives a charity an annual annuity gift over a term, with an individual receiving the remaining assets at the end of the term.

"For estate planning purposes, it's generally very easy to set up and there's not a lot of costs involved," Ingrasci said.

Donor advised funds

These funds are often created in partnership with an existing nonprofit or foundation, which serves as sort of an umbrella organization over multiple funds. The largest in Western New York is the Community Foundation for Greater Buffalo, which has grown in the past 15 years from about $150 million in assets to $800 million, with about 900 individual donor-advised funds under management.

"We consider ourselves the foundation of foundations," said Betsy Constantine, executive vice president and incoming president/CEO at the Community Foundation.

She said the donor advised fund is widely recognized as a flexible option for families or individuals who want to actively give and make decisions, including those who are long-term focused and looking to guide what that looks like for future generations after they're gone.

The costs to set up this type of fund are minimal since the partner organization handles administrative functions and dollars are pooled with other funds, so there are no record-keeping required of the individual.

Additionally, because there are no separate tax filings required, donations and the names of advisory board members are not disclosed publicly the way they are on a private foundation tax filing.

In the past four years, the Foundation for Jewish Philanthropies has grown from $195 million in assets to $235 million, primarily through new donor-advised funds and relationships. That includes a $26 million endowment this year creating the Anne Alford and Mason Fiske Surdam Charitable Fund.

Irv Levy, executive director, said the donors knew they wanted investment income from the fund to benefit three area charities they supported during their lifetime.

"They didn't have anyone that they were looking to carry out their philanthropic mission and they had already identified what their philanthropic mission was, so adding a level of complexity of trying to main-

$235M

Assets of Foundation for Jewish Philanthropies, up from $195 million four years ago, primarily through new donor-advised funds and relationships

5%

Amount a foundation needs to pay out of total assets in gifts and grants annually to meet federal guidelines

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> **BETSY CONSTANTINE,** executive vice president and incoming president and CEO, Community Foundation for Greater Buffalo

tain a board, have board meetings and separate filings just wasn’t necessary,” Levy said.

In most cases, the individual who makes the gift retains some level of control over how funds are dispersed, but the partner foundation is the one writing checks and tracking payments.

If there’s a downside, Ingrasci said, it’s that the donor has no control of how the funds are invested.

Private or family foundations

A third option for individuals, families or corporations involves creating a separate nonprofit legal entity as a foundation. As with any business, that includes legal fees, state and federal tax filings, creating bylaws and establishing a board of directors and hiring staff.

The main advantage here is creat-ing a legacy, Ingrasci said.

“For those who want to create a family foundation, it really does create a lasting legacy in the communi-ty,” he said. “The namesake is there in perpetuity.”

Additionally, there is a lot more flexibility over investment options and decisions. Family members and advisers who want to continue to stay involved can play a role in day-to-day operations and as board members.

But a foundation also needs to ensure it is paying out at least 5% of total assets in gifts and grants annually to meet federal guidelines; and is subject to 1.39% federal excise taxes.

“It’s certainly more expensive from a client standpoint to maintain a private foundation than a donor-advised fund, so (donors) find they can accomplish all of their goals without the additional compliance effort,” Levy said.

Making a change

Another option allows a foundation to transition to a donor advised fund. The biggest reasons include realizing greater investment gains, minimizing administrative expenses or changing priorities of future generations.

A few examples include The Josephine Goodyear Foundation and the Seymour H. Knox Foundation as well as corporate or nonprofit foundations like the Library Foundation of Buffalo & Erie County and the HealthNow Foundation – all of which have folded into the Community Foundation for Greater Buffalo.

Constantine said sometimes the individual realizes they want to focus on the joy of giving their money away and not necessarily on the administrative aspect of running a private foundation.

“They want to ensure there will be continuity whether their kids are here or not,” Constantine said. “If there are no future generations, it gives individuals a lot of control – actually more control in many ways – to do it through the Community Foundation.”