



GLOBAL FAMILY PHILANTHROPY

Exploring key considerations for giving across borders.

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GLOBAL FAMILY PHILANTHROPY

Wealthy philanthropic families are more geographically spread out than ever before.

Not only does this create logistical hurdles, but rifts can develop within families, separating family members by more than just distance. For families committed to philanthropic giving, this both poses problems and presents opportunities that deserve further examination.

Conducting global family philanthropy is often filled with traps for the uninitiated. Depending on where donations are coming from and where they are going, scores of legal restrictions, tax dilemmas, and other concerns can be triggered despite the good intentions of donors. A plethora of vehicles and structures can help families give internationally, but each comes with its own unique challenges and can differ drastically depending on the countries involved.

Yet, global family philanthropy can be an extremely rewarding experience and is vital to today's philanthropic ecosystem. In the U.S., family foundations number in the tens of thousands, and the number of organized family philanthropic ventures in countries like India, China, and Singapore has grown rapidly.

While significant gaps still exist in the data we have about family philanthropy around the world, families with a global footprint need to have reliable information and advice about giving across borders.



This publication brings together the experiences of three organizations involved in global family philanthropy and addresses some common hurdles that global families face. With both practical insights and deeper explanations of legal processes, it seeks to contribute to an area of research that needs more data and information.

The paper provides an overview of the common vehicles that are available for global family philanthropy, such as family foundations, donor advised funds, and giving circles. It also addresses issues of tax, exploring how different countries offer tax benefits for charitable giving and how this can affect where philanthropic capital resides. The paper dives into some of the most challenging regulations that arise when conducting cross-border giving.

This paper is most relevant for readers with an interest in philanthropic giving within and among the United States, United Kingdom, Greater China, Singapore, and Canada.



WHY GLOBAL FAMILY PHILANTHROPY

Over the next 30 to 40 years, wealthy families around the world will participate in the largest transfer of wealth in human history. According to Accenture, that transfer will total US\$30 trillion in assets in North America alone.¹ As families look to manage cross-generational wealth, many are also contending with the challenges associated with being a global family. With family members and assets spread across multiple countries, they are exploring how to create a charitable legacy and how to mobilize those assets to support values and causes that are important to their family.

Over \$4 trillion assets are held by more than 10,000 family offices in the world.

There is significant wealth residing within families. EY estimates there are more than 10,000 family offices in the world, while Camden Wealth says there are more than \$4 trillion assets held by family offices.² This is just a glimpse at current family wealth, but there are many other families who are not structured in this way or do not have the sizable assets required for a family office. Regardless, with wealth being developed in more countries and with families becoming more dispersed, we are witnessing the rise of family philanthropy globally. Whether it is U.S. citizens working in the United Kingdom or Chinese students attending

U.S. universities, people are increasingly crossing borders, establishing roots, and creating charitable legacies in their new homes.

Indeed, charitable giving outside of a home country is one of the faster growing segments of family philanthropy.

Private giving for international causes increased by 7 percent, adjusted for inflation, from 2017-2018 and now represents 5 percent of all giving in the United States, according to Giving USA data for 2018.³ Meanwhile, the 2018 CAF World Giving Index showed that giving in developing countries rose by almost 2 percent,⁴ demonstrating that philanthropy often increases alongside economic development. Multinational families continue to seek ways to engage in cross-border giving to bond with family members who live in different countries. Helping people around the globe is one way to establish priorities that resonate across borders as part of the overall family wealth management strategy.

However, despite enthusiasm for giving back and the desire to do so in a collaborative way with family members around the globe, multinational families are confronted with many challenges. Sources of advice are few and difficult to find.

THIS PAPER EXPLORES:

- Motivations for giving across borders, such as legacy, religion, and tax benefits.
- Regulatory and geographic challenges that make cross-border philanthropy trickier than domestic giving.
- Structures and models for managing charitable assets across borders.
- New strategies and trends in how families are using their wealth for social benefit.



MOTIVATIONS

FOR GLOBAL FAMILY PHILANTHROPY

FAMILY CHARITABLE LEGACY

Philanthropy is well-recognized as one of the best ways for wealthy families to introduce younger members to the joy of giving; train younger generations in financial, legal and organizational matters; and prepare family members for the process of making decisions as a group, a skill that will be key to building a charitable legacy over multiple generations. Family philanthropy is more than individual family members giving money to charity; it is charitable giving done by a family group. It is often the activity of choice for wealthy multinational families seeking to establish a legacy and maintain family bonds.

Family philanthropy is most effective when based on values that are important to most (preferably all) family members, framed by a vision of the family legacy. Whether this is detailed in a family mission statement, noted in the minutes of a family meeting or transmitted orally and frequently refined, it is an important step if the family is to recognize benefits beyond individual members' personal satisfaction of giving back to society or tax deductions.

Many families jumpstart joint giving with a family meeting. This is often led by a neutral (non-family) facilitator who leads communications exercises and guides family members in discussions aimed at uncovering values important to individual family members, thus homing in on a common theme, or core of shared values. This is an ideal starting point for families to embark on charitable giving.

When family members are spread around the globe, collaboration and communication are often challenging. However, technology is opening up communication channels, and younger generations are leading the way. This is explored in greater detail in a later section of this paper.

CASE STUDY:

A MULTIGENERATIONAL FAMILY FINDS COMMON GROUND

A multigenerational family in Canada maintains global ties through their family business and travels. With family members in multiple cities throughout Canada and outside the country, they face challenges keeping in touch and only see each other for Christmas. The eldest generation of the family has a history of philanthropy and has instilled a charitable spirit within their children and grandchildren. However, they have found it increasingly difficult to connect with their family over philanthropy, as family members have spread out and pursued their own paths.

The eldest generation enlisted the assistance of a family governance facilitator, who created a half-day meeting for the family the day after Christmas when all of the family was together. The goal of the meeting was to explore common values shared by the family. Despite resistance that the family members were too different and that generational issues would take prominence, the family ultimately agreed upon three different values: helping those less fortunate; helping children; and education. The facilitator then guided the family in creating a mission statement and encouraged the family to align their giving around these causes. Years later, the family became so involved in their giving they established a formal family foundation. This in turn binds multiple generations of family members in joint decision making with a purpose they are all passionate about.

A common, universal question is: “At what age can/should the upcoming generations play a role in family philanthropy?” Successful families usually start with young children⁵ and continually increase their involvement. Teenagers who are interested can participate in investment discussions if the family has established a foundation or other endowed funds. Some families encourage or even require members of all ages to back their grant requests with personal involvement such as volunteer work and/or small gifts of their own funds. Much has been written about the specific activities of philanthropic families, which are as numerous and varied as the number of families. Family leaders and champions of charitable giving are encouraged to peruse the plethora of related books and articles, attend seminars, connect with other philanthropists and develop their own training programs and succession processes to suit their family situation and dynamics.

RELIGION

Some religions mandate that certain sums be dedicated to charity, while others are less prescriptive, but no less supportive of charitable giving. Giving to churches and similar religious institutions has long been popular in many countries.

- Christianity has historically embraced tithing, or giving 10 percent of income, though the number of Christians doing this has decreased to an estimated 10-25 percent.⁶ Further, there is some disagreement as to whether the entire amount should be given to the local church or whether it can include donations to any charitable organization.
- Jewish faith encourages charitable activity through concepts such as “tzedakah.” In Orthodox Jewish communities, tithing has been a practice since ancient times, while the idea of “tikkun olam,” or mending the world, is interpreted by many Jewish communities as encouraging actions that benefit all people.

- Hindu scriptures stress the virtue of giving to a needy person, and rituals at festivals always include charity (“dana”). Hindu temples often facilitate philanthropy by collecting donations and disbursing funds to feed the poor and support public projects.
- Islamic charity is more overtly present. Under Sharia law, mandatory charitable giving, or zakat, is the duty of every Muslim. Specific practices and laws vary among Muslim countries, with zakat being voluntary in some and a legal requirement in others. Beyond “zakat,” “Sadaqah” is voluntary charitable giving to worthy causes, which specifically exclude involvement with prohibited items such as pork, alcohol or earning interest on debt. Direct assistance to a poor person or paying off the debt of a family member are considered “the most virtuous forms of charity.”⁷ Given the absence of tax deductions for charitable giving for residents of low to no tax countries such as the United Arab Emirates and Saudi Arabia, this is a common form of philanthropy in the Middle East.
- Buddhism embraces the concept of selfless giving, seeking no personal gain and supporting a monastic lifestyle. Thus, giving tends to be private and low key, but no less important.

TAX CONSIDERATIONS

Only 17 percent of wealthy people in the U.S. say they are always motivated to give because of tax purposes.⁸ While it is heartening to know that tax benefits are not the primary motivation for giving, if tax benefits for giving exist, then it makes sense to use them. Indeed, while it might not be the primary motivation for most donors, when the charitable income tax deduction was being debated in the U.S. in 2009, 67 percent of people said they would decrease their giving.⁹ Some experts also posit that the raising of the standard deduction threshold in the U.S. has also impacted giving.¹⁰

Taking advantage of charitable deductions makes sense when they exist, but when a family resides in different countries, this becomes difficult. Significant discrepancies

in taxes and potential tax deductions among family members living in different jurisdictions can often be a major stumbling block in finding the best jurisdiction to establish a family's charitable entity. Those living in high-tax jurisdictions may be restricted not only by the location of their charitable vehicle, but also by the location of the charitable recipients.

For multinational families with charitable resources inside and outside the United States, an important consideration is which countries allow charitable funds to cross outside their borders while still maintaining that country's tax benefit for giving. The United States is traditionally one of the most open countries for cross-border giving. This is partly due to the regulations in the United States that make it possible for charities to make grants internationally. It is important to note that even in the U.S., individual donors can only claim a charitable tax deduction when donating to a U.S. charity and not when donating directly to a foreign charity. Many other countries strictly limit the philanthropy that can travel outside of the country's borders.

As illustrated by the following examples, the tax incentives for charitable giving vary drastically around the world and there are very few cases where a charitable deduction exists for giving directly to causes outside of the country.¹¹

■ **IN SINGAPORE**, where a culture of domestic philanthropy is highly encouraged, families giving locally receive a significant tax incentive. At least until the end of 2021 when the temporary regulations expire, families setting aside charitable assets receive a 250 percent tax break for donations.¹² This is the largest tax break given by any country in the Asia-Pacific region and may be a significant motivation for multinational families who are making decisions about where and how to give. However, for families prioritizing donees outside of Singapore, regulations in Singapore may limit the amount that can be contributed to overseas causes. While this may be waived for certain private foundations and funds, families seeking to use their philanthropy internationally should be aware that Singaporean regulations greatly encourage

domestic use of philanthropy over international uses. Charities raising funds within Singapore, including foundations, must spend 80 percent of what they raise within Singapore's borders unless they receive special permission to waive standard restrictions. For this reason, a two-tier system currently exists in Singapore with some family foundations choosing to forego a tax benefit for their philanthropy in order to have more flexibility over where the funds are utilized.

■ **IN CHINA-HONG KONG SAR**, the tax incentives for philanthropy are not as strong as in Singapore but are still significant. Individuals may deduct up to 35 percent of their annual income as a result of charitable donations.¹³ No specific restrictions exist to prevent any portion of charitable funds from being used outside of Hong Kong SAR's borders. Foundations in Hong Kong SAR handling charitable funds must ensure that funds going overseas are used within the relatively broad scope of poverty alleviation, education, health, or religion.

■ **IN THE UNITED STATES**, where the tax incentives for charitable giving are closer to what Hong Kong SAR offers, families may use charitable funds overseas for an even broader set of charitable activities. However, individuals can claim a charitable tax deduction only if their gift is made to a U.S. charity, which can then grant the funds internationally. Private foundations and donor advised funds in the U.S. must typically follow one of two structured procedures defined by the government for ensuring that overseas causes are indeed aligned with what is defined as charitable in the United States.¹⁴ There are a significant number of U.S. charities that maintain programs internationally or make grants globally, allowing for U.S. donors to easily support causes outside the country while still claiming tax benefits.

■ **IN CANADA**, there are generous incentives for giving to qualified charities at both the federal and provincial levels. The federal charitable deduction is 15 percent up to \$200 and 29 percent on any amount greater.

Provincial tax credits vary and in general, donors can claim up to the limit of 75 percent of their income.¹⁵ However, tax credits may only be claimed on gifts to qualified Canadian charities, therefore any gifts to support work internationally should be done through Canadian charities with programs outside of the country.

- **IN THE UNITED KINGDOM**, Gift Aid allows for charities to reclaim the basic tax rate of 20 percent on gifts, essentially increasing the value of any charitable donation by 25 percent. This is particularly effective for higher tax rate taxpayers who pay 40 to 45 percent on their income tax, who may then claim the difference in their higher tax rate and the basic tax rate.¹⁶ Donors who pay both U.K. and U.S. taxes may benefit from tiered structures that are increasingly popular and allow charitable deductions in both countries.

In an era where family wealth is growing significantly in locations like mainland China and India, the tax benefits for families in Hong Kong SAR, Singapore, and the United States engaged in international philanthropy may seem quite generous. In both mainland China and India, charitable funds providing a tax benefit to donors cannot be used overseas at all without special permission.

For families who pay taxes in various countries, it's important to be familiar with the possible tax incentives for charitable giving.





OPTIONS FOR GLOBAL FAMILY PHILANTHROPY

WHAT DOES THE DATA TELL US?

While there is no single study that examines the amount of money attributable to family philanthropy or that crosses borders for charitable giving, we know that families are an important source of wealth and generosity across the world. There is a great deal of research that is still needed in this area, and while the following chart is a good snapshot of what we know, it also reveals what we do not know.

Concerning the global flow of money from individuals and families, we do know that global remittances hit an all-time high of \$689 billion in 2018.¹⁷ While remittances flow from individual to individual or family to family, they are often

on par with Foreign Direct Investment or exceed it in certain countries, demonstrating both the scale and the potential for development that these flows possess.

It is important to note that by including remittances, we only intend to highlight the comparative lack of research we have on philanthropic flows and to provide a useful image of philanthropy's potential. While remittances to family members may take the place of grants from charitable organizations, particularly in countries where the nonprofit sector is not well developed, we are not equating remittances and philanthropy as they differ in significant ways.¹⁸

| COUNTRY | PHILANTHROPY FLOWS |
|----------------------------|---|
| Canada | \$9.6 billion in total philanthropy ¹⁹ (2017) <i>*International funding unknown</i> |
| China | \$23.4 billion in total philanthropy ²⁰ (2019) <i>*International funding unknown</i> |
| India | \$10.17 billion in total philanthropy ²¹ (2018) <i>*International funding unknown</i> |
| China-Hong Kong SAR | \$1.50 billion in total philanthropy ²² (2014) <i>*International funding unknown</i> |
| United Kingdom | \$13 billion in total philanthropy ²³ (2018) <i>11 percent to overseas aid and disaster relief</i> |
| United States | \$427.71 billion in total philanthropy ²⁴ (2018) <i>\$22.88 billion to international affairs (2018)</i> |

There are still significant gaps in our knowledge of philanthropic flows both within countries and to other countries; the biggest gap being the latter. In the U.S., \$35.4 billion of foundation grants between 2011 and 2015 were for international causes.²⁵ But even with an established foundation structure, environment, and mechanisms that

enable cross-border giving, much of this funding was channeled through U.S.-based intermediaries. In other words, while we know for a fact that families are giving globally, it is next to impossible to state the scope, scale, or frequency of their giving without better research.

WHAT MAKES GLOBAL FAMILY PHILANTHROPY DIFFICULT?

Family dynamics already make joint family philanthropy a complicated prospect, but giving becomes exponentially more complex when distances and borders are involved. In the rest of this paper, we explore the conundrum of choosing the correct vehicle for global family philanthropy and address the regulatory hurdles that philanthropic families might face when giving internationally.

- **VEHICLE CHOICE:** Evaluating the dizzying array of structures and possible locations in which to establish a family's charitable entity is extremely important. This has become even more complex with the evolution of new options, such as online giving, impact investing, and venture philanthropy.
- **REGULATIONS:** Giving across borders often triggers a wide array of regulatory concerns. From dealing with outflow restrictions (i.e. hurdles imposed by the domestic country), to inflow restrictions (those imposed by the recipient country), cross-border giving is no easy task. Post 9/11 laws, such as the USA PATRIOT Act in the U.S. have set new standards to ensure transparency in cross-border giving and to prevent the misuse of charitable funds for terrorism, money laundering, or other criminal activities.

STRUCTURING GLOBAL FAMILY PHILANTHROPY

The mode of engagement by families in projects funded with their philanthropy varies and is often defined by culture and other norms. For example, in India and many other parts of Asia, family foundations and trusts commonly engage in the implementation of their own programs. The idea of making grants to professional, third-party nonprofit organizations is relatively new in some countries where charity is not just the act of giving. In these cases, families may choose to use their foundations to directly establish and operate schools or hospitals. In some cases, families make this choice based on a desire or a sense of responsibility that they should be directly involved in program work.

CASE STUDY: INDIAN FAMILY OPERATING THEIR OWN PROGRAMS

A family in New Delhi, India has operated a successful nationwide health company for two generations. A portion of the family's wealth is put aside into a charitable trust with a focus on education. During this time, the family's trust has acted as an implementing organization to both establish and operate schools serving communities in and around New Delhi. The family, as part of this activity, has formed a partnership with the local government. As the schools created by the family become more established and sustainable, the government agrees to take over ownership and operation of the schools so the family can move on to establish additional schools needed elsewhere.

In discussions, the family members have explained the benefits of this model for them. Most importantly, the family considered it their duty to operate these programs and to be directly involved in the success of the schools. Simply making a grant or relying on a third-party nonprofit organization would be irresponsible of them, in their view. Also, because of distrust that exists in India for the nonprofit sector, they see much less risk in operating the programs themselves. This includes less risk in the financial management of the project, in the success of the schools, and in their relationship with local government.

Looking ahead at future plans, the family has stated that they will not move to a more traditional, western-influenced grantmaking model and will maintain their current structure operating schools for the foreseeable future.

In addition, in some countries, families may have a harder time building trusted relationships with existing professional nonprofit organizations. In many places outside the United States, models of family philanthropy that engage primarily in grantmaking are relatively new.

One of the biggest challenges facing multinational families wishing to engage collaboratively in charitable giving is determining the structure which best fits their situation. Family philanthropy can be organized in many ways. However, oftentimes the decision ends up being a trade-off among the various goals and constraints that are available in different entities and locations.

To further complicate decisions, options for the entity housing the giving vary among countries. Some vehicles are unique to a specific country, and some structures, while available in many countries, have different meanings and different tax and legal treatment from one country to another.²⁶

An important question that philanthropists need to ask themselves is how formal they want their giving to be. Depending on the vehicle they choose, donors can be expected to become full-time philanthropists, needing to hire staff and maintain an office. In other cases, they may simply have to

mail a check. In many ways, this spectrum also reflects the degree of control donors have over their giving.



CHECKBOOK GIVING TO CHARITIES IN DONORS' JURISDICTIONS

From legal and administrative perspectives the simplest “structure” is for family members to make outright gifts to the same or similar charities based in one or more countries. For instance, assuming the family agrees that supporting medical research is a focus for a given year or period of time, they may all donate assets to charitable institutions and/or funds (based in or outside their own country) that favor this research. Through social media, email and in-person gatherings they can share details about their respective gifts, thus achieving a sense of unity in supporting a cause.

Family members in high-tax jurisdictions typically prefer to choose their recipients and structure their gifts to optimize potential tax deductions. U.S. donors seeking to maximize their charitable income tax deduction usually favor organizations qualifying as public charities under the Internal Revenue Code (IRC) 501(c)(3).

To help demonstrate this, the graphic below shows a spectrum of vehicle options in the U.S.





GIVING TO LOCALLY REGISTERED CHARITIES WITH GLOBAL OVERSEAS PROGRAMS

Donors to such charities may be able to designate, or at least recommend, that some or all their donation be used for projects outside their country. For instance, in the U.S. there are many U.S.-based and international NGOs that are registered to receive tax-deductible donations to carry out international projects themselves. These are permissible if the project, and the nonprofit executing the project, meet the IRS criteria for nonprofits based in the U.S. However, while when giving to such organizations donors can restrict their gifts to a purpose, there is no guarantee that their gift will be given to a specific charity or even used exactly as they had envisioned it. Donors wishing to exercise more control over the use of their gifts may prefer other options.



DIRECT GIVING TO FOREIGN CHARITIES

Individuals, particularly younger family members, are increasingly considering philanthropy as a global endeavor, seeking opportunities to help those in need regardless of where they live. They are also attracted to charitable opportunities in which they can be personally involved. They may want to support a school for disabled children in a less-developed nation, for instance, or a farming project in rural regions of the world. The rise of the internet and plethora of online giving sites has made not only donations around the globe possible, but has made connecting with recipients in a more personal way easier than ever before.

However, making gifts directly to foreign charities poses some challenges.

Vetting the recipients is daunting. Determining if funds are truly going to the cause intended rather than funding illicit activities can be particularly difficult in cross-border giving. While the best practices for researching prospective grantees is beyond the scope of this paper, it's important for donors to understand that often giving across borders triggers a much more extensive need for due diligence and list-checking. Families are encouraged to engage experienced advisors when undertaking direct gifts to foreign charities.

And while claiming a tax deduction may not be a priority for some, it can be important to larger donors. As noted earlier in this paper, global philanthropists encounter varying tax results when giving outside their home country. Contributions to a typical crowdfunding site rarely provide U.S. donors with tax deductions, even if the funds are destined for a charitable cause.²⁷ Campaigns attracting significant American donors may choose instead to make gifts through one of the funding vehicles described below.



FORMING A GIVING CIRCLE

These groups allow members to share insights, pool funds for more impactful giving and learn about each other and common interests. They are often run informally, with the members deciding on one or more recipients at regular intervals. Decisions are usually by majority vote, but possibly by full consensus depending on their culture and family dynamics. Giving Circles have a long history in the U.S. and have grown rapidly in recent years. Grants from Giving Circles are estimated at \$1.29 billion,²⁸ and have been active in the U.K. since 1999. In Asia, interest in this structure is now growing as groups of multiple high-net-worth families find value in pooling their knowledge and resources by discussing, prioritizing, and funding areas of shared interest.



ESTABLISHING DONOR ADVISED FUNDS (DAFS)

Donor Advised Funds are separately identified accounts sponsored and administered by public charities. They are available in some countries, such as the U.S., Canada, and U.K. Individual donors or groups of donors, such as family members, donate to their specific account or “fund.” They advise the sponsoring charity regarding desired distributions and, in some cases, recommend investment policies. However, ultimate control over the charitable recipients and investment strategies rests with the sponsoring charity. Some families are initially concerned that while donors recommend grant recipients, the sponsoring charity has ultimate control over the distribution of funds. However, provided the recipient is a reputable charity with the necessary credentials, vetoes by the sponsoring charity over a donors’ grant recommendations are rare.²⁹

Combining the power of financial support with personal involvement through volunteering can be both fulfilling and an ideal bonding experience.

For instance, in addition to ongoing volunteer work in their respective countries, family members from around the world may gather annually to work on a project in one of the countries to which an individual or branch of the family is donating money. This has become a favorite bonding experience for a large global family based in Hong Kong SAR and with various generations now in Canada, the U.S. and the U.K. In alternate years, family members all assemble in one of the home countries for a multi-day volunteer project. It is often preceded or followed by a family event.

CASE STUDY: A DIVIDED FAMILY REUNITES AROUND CHARITABLE LEGACY

A family in China-Hong Kong SAR, led by the eldest generation, has long donated locally in an informal manner. However, as younger generations have matured and traveled the world, they’ve expanded the scope of charitable activities that interest the family. As these generations have established residences in Canada, the UK, and throughout the U.S., it’s become harder for the family to see each other, only coming together for events such as weddings.

When the patriarch of the family died, his children organized a volunteer project in Hong Kong SAR to honor their father’s memory and bring the whole family together. Many family members spent a whole day at a school where they volunteered, delivering supplies and meeting the children, whom their father had long supported informally. Finding the experience so moving and fulfilling, the family pledged to repeat the project biannually and rotated the volunteering day throughout different regions in Hong Kong SAR.

As the eldest generation passed, the rising generations have now established bonds of trust and understanding through their volunteering and giving. This has resulted in the family embracing their shared values and committing to joint management of family wealth in honor of their parents and grandparents.

A compelling benefit for many families using a DAF is that family members are relieved of responsibilities for legal and tax filings, as well as many administrative duties associated with operating a foundation. Family members can focus on the spirit of their philanthropy, rather than being overwhelmed by red tape.

While most common in the United States, DAFs are beginning to appear in other countries or as services within emerging community foundations in other countries. As would be expected given their long standing charitable laws and tax benefits for charitable giving, Canada and the U.K. have also housed DAFs since 1952 and the 1970s respectively. In Canada, recent growth in these funds has been particularly strong, with over 10,000 DAFs totaling an estimated \$4 billion.³⁰ DAFs have also been noted as the U.K.'s "fastest growing philanthropic vehicle."³¹

This popularity is now gaining momentum in other jurisdictions. For example, in Singapore, the Singapore Community Foundation engages in grantmaking with advice from donors. In Hong Kong SAR, the DAF model is just beginning to emerge as an alternative to establishing independent family foundations.



CREATING A CHARITABLE FAMILY FOUNDATION

For families wishing to have more control over the vehicle holding their charitable assets and for those willing to invest time and professional fees, a charitable family foundation is a common vehicle to receive contributions from family members and distribute funds on behalf of the family as a whole. Charitable family foundations are attractive to families who wish to set aside large pools of money³² for a period of time, for example, for the lifetime of the patriarch or matriarch founder, or in perpetuity, by investing the corpus and using investment income to support charitable programs. These may have different names and structures from country to country. For instance, in the U.S. these are typically called private foundations, while in

Germany they could be 'Holdingstuftung,' in India they could be 'Trusts,' and in France 'fondations actionnaires.' They may be established by family members or a family business.

Charitable family foundations are compelling in that they may memorialize the family name, employ family members (at reasonable salaries), engage in program implementation, and place the grant process under the family's control. However, private foundations need care and feeding—including legal fees for formation and ongoing accounting fees for annual tax returns and related tax documents, as well as other costs associated with running a charitable business. Further, the income tax deductions for donations to these charitable family foundations may only be available to taxpayers in the home country of the foundation. Even then, this may be less generous than those available for outright gifts to different charitable structures.

Increasingly, attorneys are advocating for the use of dual-qualified charitable foundations. For instance, a foundation that qualifies for tax deductions in both the U.S. and the U.K. is set up in the U.S., with a wholly owned "subsidiary" charitable entity with a U.K. situs. The U.K. charity elects pass-through tax treatment, so that all income and deductions flow to the U.S. parent, retaining their same character. Since both entities are compliant with the requirements permitting tax deductibility for donors in the U.S. and the U.K., this arrangement provides a way for a family with members in these two high tax jurisdictions to deduct contributions made to one umbrella foundation. Similar dual-, and possibly triple-, qualified foundations can be set up in other countries. Although this requires experienced counsel to establish and oversee, it is an attractive choice for some global families planning for large multigenerational foundations.

In Muslim countries, a waqf, or endowed charitable entity complying with Sharia principles, is similar to a private foundation and fills much of the same purpose. Though receiving tax deductions is not a factor for residents of the low to no tax countries in parts of the Middle East, for U.S. or U.K. taxpayers seeking tax relief, a waqf may be set up as a charitable trust under U.S. or U.K. law. Distributions or grants may then be made by the waqf to foreign charities subject to the requirements for private foundations.

WHETHER DAFS OR CHARITABLE FAMILY FOUNDATIONS?

In the U.S., where the Donor Advised Fund structure is quite common, the guidelines for international grantmaking are less defined than for charitable family foundations. As a best practice, most organizations sponsoring DAFs observe private foundations rules when sending charitable funds overseas.

Required for DAFs in the same way they are for charitable family foundations, regulations for U.S. grants to overseas causes follow one of the procedures below to protect a donor's tax deduction.

- **EXPENDITURE RESPONSIBILITY:** This is a process that requires the grantmaking organization, either the sponsoring organization of a DAF or a charitable family foundation, to closely monitor the use of funds used for a project overseas. Once sent overseas, the funds must be tracked in a separate account and all use of those funds must be documented and applied to delivering a specific, pre-defined project outcome.
- **EQUIVALENCY DETERMINATION:** This alternative process requires a legal review of a prospective overseas grant recipient to assess whether that organization is the equivalent of a U.S.-based public charity. Once that legal assessment is complete, grants can be made with very little further tracking or reporting on the specific use of funds.

A NOTE ON TERMINOLOGY

Despite terms often being similar across countries, there can be significant differences between the actual legal meaning of various vehicles. A good example is the term “foundation.” Depending on the country, this could be a public entity; a private entity; or a hybrid, combining elements of both public and private institutions. In Canada and the U.S., a foundation is typically thought of as a charitable entity, whereas in civil law countries, particularly in Europe, it often has broader meaning. It could be a hybrid between a corporation and a trust, established to hold family assets. For instance, in Switzerland there are holding foundations, charitable foundations (serving only a public

An advantage of Donor Advised Funds over charitable family foundations in the U.S. is that donated funds in the DAF can be held in investment for a greater period without being used for grantmaking. This is compared to regulations for private foundations that require at least 5 percent of assets be released annually for charitable purpose³³ Although there has been some criticism of donors hoarding funds in their DAFs after receiving an initial tax deduction for the contributions, in fact, considerable grants are made out of DAFs on a regular basis.³⁴ Many fund sponsors, particularly Community Foundations, encourage annual grants and even guide fund holders in selecting their donees. It is the flexibility to time their donations to when most needed by the final charitable recipients that wealthy philanthropists prize.

In summary, DAFs are often more cost-effective than charitable family foundations, particularly for smaller amounts, and do not have a minimum annual requirement for grantmaking. They also may provide more generous tax benefits compared to other forms of giving.³⁵ However, charitable family foundations are a good choice for families that are seeking more administrative control or have a vision for the establishment of a long-term foundation operated by family members.

*Visit the appendix for a
more detailed comparison
of giving vehicles.*

benefit), charitable holding foundations (a hybrid) and family foundations. The latter are limited to supporting the education of dependent family members, while the charitable foundation is more akin to the North American concept of Foundation.

Along a similar vein, in the U.S. a “charitable trust” usually means a trust established by an individual which has at least one public charity as a beneficiary. It is rarely used today to refer to public nonprofits. But in the U.K. and Ireland, “trusts” include public charities.

OTHER CHARITABLE ENTITIES

“FRIENDS OF” ORGANIZATIONS

“Friends of” Organizations: In the U.S., Canada and Europe, foreign charities may establish U.S. “branches” dedicated to supporting the mother charity. These are qualified public charities in their own right under IRC 501(c)(3) and permit individual U.S. donors to receive income tax deductions for their gifts to foreign charities. Importantly, the U.S. branch must be deemed independent from the foreign headquarters and run its own charitable programs, so as not to be seen as a mere conduit for funding to the foreign charity. These are commonly used by non-U.S. universities seeking donations from alumni living in the U.S.

FRIENDS FUNDS

Not to be confused with the “Friends of” organizations, Friends Funds are accounts housed within a U.S. public charity that allows for a foreign organization to raise funds from U.S. donors in a tax-effective manner. The U.S. charity handles the administration of the account; however, it must maintain control and discretion over the funds and cannot simply pass along funds to the foreign charity without proper due diligence. These are somewhat similar in concept to the more recent crowdfunding that has become a popular way for mostly younger donors wishing to support ideas, inventions, personal challenges and other typically non-charitable causes. The original donor “runs” the fund in terms of recommending specific gifts and investments, allowing the rest of the donors to take a more passive approach to their philanthropy while trusting that their gifts will be used wisely.

EVOLVING VEHICLES

Some countries have courted charitable entities for years and offer many options. Others are just now ramping up their efforts to attract philanthropic organizations. In both cases, governments are enacting new legislation to facilitate the establishment and administration of charitable activities. For instance, families setting up their charitable entity in the Cayman Islands may choose from a number of vehicles, including a charitable trust, a family foundation, and a recently created entity, a Foundation Company.

For their part, philanthropists are also blurring the lines between purely charitable and partly non-charitable structures. In the U.S., the “Charitable LLC” has captured a lot of press for its flexibility and relatively minimal constraints or reporting requirements as compared to traditional charitable entities. Formed as a Limited Liability Company (LLC) under the laws of the state where it is located, this hybrid vehicle can permit distributions to a mix of nonprofit entities, individuals and for profit organizations. Charitable tax deductions flow back to the owner (members) only when distributions are made to qualified charities, rather than at the funding of the LLC.

Beyond even the creative use of different structures to hold assets designated for charity, philanthropically oriented business people are forging new paths for traditional for-profit businesses to include a mandate to “give back” and support causes such as climate change. Although beyond the scope of this paper, the multi-country rise of the B corporation movement is an example of this.

COUNTRY OVERVIEW

Most countries have formal registration procedures and ongoing reporting for charities. These are typically more stringent in countries with reasonably high taxes, accompanied by provisions for tax deductions to donors and/or tax exemptions for earnings within the charitable entity. Charitable giving in these countries is complicated by the numerous changes in tax codes and regulations. As may be expected, this includes the U.S., U.K., Canada and many European countries.

Some countries are enacting laws and regulations that, though aimed at creating a more trustworthy and stronger charitable sector, can confuse donors, particularly those from other countries.

BERMUDA

- Bermuda has over 320 registered charities and many privately funded ones. There is a vast range of permissible charitable purposes. However, the Charities Amendment Act 2018, effective August 10, 2018, required that privately funded charities be registered with the government due to a need to increase anti-money laundering protocols. While this supports a more transparent charitable sector, it adds additional steps and administrative hurdles for those seeking to establish a privately funded charity.

CANADA & UNITED KINGDOM

- Canada and the United Kingdom are actively strengthening their respective charitable sectors, with legislative changes clarifying permissible activities for charities and oversight by regulatory commissions “to ensure charity can thrive and inspire trust.”³⁶ Both the UK Charity Commission and the Canada Revenue Agency are extremely diligent in their regulation of the sector.

INDIA

- In India, giving away part of one's income has long been a tradition, supported by the Hindu and Muslim religions. However, since 1976 the Foreign Contribution Regulation Act has required that charities must have special registration to accept money from outside India, making it harder for all donors outside of the country to support charitable activities within India.

UNITED STATES

- The U.S. continues to be one of the bastions of charitable giving, with approximately \$427 billion donated annually.³⁷ Charitable giving is encouraged by well-recognized tax breaks and further nudged by modern marketing programs by a relatively sophisticated nonprofit sector. However, the rules permitting tax exemptions and deductions for both charities and donors are lengthy and complex, and the excise taxes for transgressions can be steep.



REGULATORY CHALLENGES

FOR GLOBAL FAMILY PHILANTHROPY

CONTEXT

It is with a mixture of shock and confusion that many well-meaning philanthropists are confronted with the rapidly increasing number of regulations impacting charities. Unfortunately for the broad swath of altruistic philanthropists, charities are under increased scrutiny. It is hard for individuals and families to understand what appear to be draconian measures, which at best make their global giving difficult, and at worst stymy it altogether. Following is a brief background to give context.

Since September 11, 2001, there has been a rapid and steady increase in both the number and severity of regulations impacting global financial flows. Through actions – such as Executive Order 13224 and the USA PATRIOT Act, the United States led the charge in strengthening the legal means to regulate financial transactions and punish suspected terrorists through sanctions. These legal actions in the U.S. have mirrored, and often encouraged, action at a global level. Across the world, the impetus for many anti-money laundering and counter-terrorist financing laws has come from recommendations by the Financial Action Task Force (FATF), an inter-governmental body established to protect the integrity of the global financial system. FATF has previously stated that governments should focus on nonprofits in their fight against money laundering and terrorist financing.³⁸

The FATF recommendations build on long history of governments seeking to better regulate financial dealings and specifically to combat money laundering and bribery. There are dozens of such laws and institutions responsible for enforcing this legislation within the U.S. alone and indeed, the U.S. often sets the standard for financial crimes enforcement. What we have today is a complex, interconnected web of country-level laws, international bodies and norms, and bank-level rules that govern when, how, and to whom financial transactions may take place.

CASE STUDY:

A SMALL CHARITY RESISTS DE-RISKING

A small U.S. public charity decided to expand its programs internationally at the request of interested donors. They began this expansion by making some grants internationally, sending the funds from their U.S. bank account. Within days, they were notified that their bank account had been closed and their funds were being returned to them, shocking the staff and board.

What the charity experienced is common and representative of the current trend of de-risking, or banks shedding accounts they deem risky. Due to the Financial Action Task Force (FATF), many banks have considered nonprofit activity to be particularly risky. Banks who unknowingly allow transfers of funds that result in illicit activity can face substantial fines, so many banks have taken a very risk-averse stance towards international transfers, especially by groups they do not know well.

The charity then decided to contact their bank and request a meeting to contest the reversal of their grant funds. After explaining the intention of the grants and their work, the bank assigned them a senior banker familiar with international regulations who reopened their bank account and works closely with the charity's leadership.

While concerns about money laundering and terrorist financing are well-founded,³⁹ nonprofits and activities typically seen as beneficial to society are being restricted. This is, in some cases, a deliberate act to regulate or restrict the activities of nonprofits. In other cases, it is an unfortunate byproduct of overly broad legal language or the fear of punishment. It is this latter fear of punishment that has largely resulted in a trend called “de-risking.”

De-risking is the practice of banks or other financial institutions who close or limit access to bank accounts of clients they deem to be too risky. In line with the regulations detailed above, banks have come under increased scrutiny and have faced penalties for abetting the flow of illicit funds for purposes such as money laundering, terrorism, or bribery. Some banks have witnessed this increased scrutiny and begun shedding any relationships that might cause penalties, which has unfortunately manifested in the closing of nonprofit bank accounts. According to a study by Charity & Security Network, 2/3 of U.S.-based nonprofits working internationally experienced banking problems.⁴⁰ For families seeking a global philanthropic strategy, de-risking can be a very real challenge. It means their own bank, or the bank of their preferred giving vehicle, may outright refuse to make a transfer to a foreign nonprofit. It also means that even if they do succeed on their end, the desired recipient may not have a bank account; not have a bank account that can accept foreign currency; or not have a bank account that the government has approved to accept foreign funding.⁴¹ It also often means delays in transfers, enhanced requests for documentation, and a multitude of hurdles to jump through just to fulfill a philanthropic desire.

The regulation of financial transactions to prevent terrorism, money laundering, and bribery are only one piece of a very complex puzzle. In addition to these rules, many countries have passed laws that specifically restrict, constrain, or prohibit the inflow of foreign philanthropic funding.

To get a snapshot of these laws, we’re highlighting a few of the more noteworthy examples below:⁴²

- **CHINA**- The Overseas NGO Management Law went into effect on January 1, 2017, regulating the mainland China activities of all foreign nonprofits. It is a comprehensive law that permits foreign nonprofits to have activities in China if they (1) register a representative office or (2) file a temporary activity license. The law has greatly enhanced the Chinese government’s ability to approve and oversee the activities of foreign nonprofits. The law also means that donors from outside of China must ensure their donations are going to approved organizations.
- **INDIA** - The Foreign Contribution Regulation Act (FCRA) has been around since 1976, but only within the past 10 years has there been significant enforcement of the Act. FCRA requires that any Indian nonprofit seeking foreign funding must apply for a special license from the government. Once approved, they may only use specific government-approved banks and must publicly report all their donations. For foreign donors, this means that the number of nonprofits eligible to receive their donations is severely limited and that direct gifts to these organizations will include donor names.
- **MEXICO**—The Federal Law for Preventing and Identifying Operations with Resources of Illicit Origin (LFPIORPI in its Spanish acronym) is an anti-money laundering law that went into effect in 2012 which notes that any grant made to a nonprofit is automatically a “vulnerable activity,” requiring increased documentation. For foreign donors, this means submitting a passport, proof of residency, et cetera.



THE FUTURE OF GLOBAL FAMILY GIVING

The future of multinational family philanthropy lies with new and exciting ideas, which are making cross-border giving easier and in tune with the interests of younger family members. These themes include integrating investments with family values and philanthropic goals and embracing technology to facilitate global family philanthropy.

CHARITABLE LIMITED LIABILITY COMPANY

Following the lead of Facebook founder Mark Zuckerberg, some high-profile U.S. philanthropists are experimenting with a new way of structuring their charitable gifts. Rather than donate to a cause or vehicle, which permits an immediate charitable income tax deduction, they are borrowing the idea of an LLC as an entity to hold a significant amount of money ultimately intended for charitable causes. Unencumbered by the rules governing reporting, administration and even investments applicable to vehicles allowing tax deductions at the funding of the entity, they have much more freedom to build their charitable nest egg. And by electing pass through treatment of income and deductions within the LLC, they are able to claim tax deductions when funds are actually distributed out to a qualified nonprofit.

INTEGRATING INVESTMENTS, FAMILY VALUES AND PHILANTHROPIC GOALS

Philanthropists seeking to optimize the impact of their gifts are increasingly blurring the lines between grantmaking and investing.

Family offices and wealthy philanthropists are seeking more than investment performance. They want to make a positive contribution to their communities and society by choosing investments which support Environmental, Social and Governance (ESG) principles. Though it had a relatively slow

start in Asia, so-called “ESG investing” is gaining traction.⁴³ This trend is supported by increasing regulations requiring companies to integrate ESG principles in their businesses and provide reports on their social responsibility.⁴⁴

Social Investing is manifesting in several ways:

IMPACT INVESTING blurs the distinction between philanthropy and investing. In some cases, investors are seeking both good financial returns and also social good. In other cases, investors see impact investing as superior to philanthropy, both because it offers at least some possibility of a return and also because it promotes sustainable business practices by the recipient. Globally, impact investing is estimated at \$502 billion, with the fastest growth in the past decade.⁴⁵ In addition, in countries where charitable funds are more strictly regulated, impact investing offers social impact with fewer government limitations. India and Southeast Asia are becoming hotbeds for impact investing. India leads the way in impact investing, with over \$5.2 billion invested by active impact investors between 2010 and 2016.⁴⁶ As of early 2019, investors have deployed US\$904 trillion in impact capital in the Southeast Asia region alone.⁴⁷

However, local experts note that given the rapid growth in wealth in this region, impact investments are still considerably lower than their potential.⁴⁸

A. PROGRAM RELATED INVESTMENT (PRI) AND MISSION RELATED INVESTMENT (MRI) are methods for larger foundations to make an impact beyond grantmaking by deploying capital to fund projects aligned with their mission and initiatives which provide more than just a financial return.

B. SOCIALLY RESPONSIBLE PHILANTHROPY is sweeping the globe. Younger family members are asking (and sometimes demanding) that the family's philanthropic nest egg be invested with a goal of addressing critical societal issues such as climate change and diversity. For upcoming generations, issues such as environmental sustainability are very important. This is now reflected not only in how companies must behave in their communities, but also how family charitable funds are being deployed.

In addition, measuring results is increasingly important. Sophisticated philanthropists want to see quantifiable outcomes on issues they care about, and in some cases sustainable business models with good leadership and the ability to continue after initial investments.

USING TECHNOLOGY TO FACILITATE GLOBAL FAMILY GIVING

Technological advances facilitate joint philanthropy by geographically dispersed members of multinational families. New technologies appeal to, and are usually championed by, rising generations.

These include the following:

- **ONLINE CROWDFUNDING PLATFORMS:** Sites that facilitate giving online and via mobile devices are creating new experiences for givers and also allow groups of people – including families – to pool their resources for specific causes and groups. Family members anywhere in the world can collaborate on their philanthropy. In addition, for emerging upper- and middle-class families in places like India, these platforms often provide a level of vetting and trust in otherwise unknown organizations doing excellent work. However, most crowdfunding sites do not generally provide tax benefits.
- **FUNDING SITES THAT SUPPORT INDIVIDUALS AND BUSINESSES:** These are sites that allow donors to identify and support individuals in need or small

businesses anywhere in the world. Technology has shrunk the world down to the point where a family in California can support a small retail business in Tanzania and virtually follow the progress of the business. These platforms attract rising generations who prefer a hands-on approach and the ability to see the impact of their gift or investment. Like crowdfunding sites, most of these platforms do not qualify for tax benefits.

- **"CHARITECH":** This is the marriage between charitable giving and technology, which is weaving philanthropy into our every-day activities. For instance, in 2015 Chinese tech giant Tencent launched 9.9 Charity Day, an online donation campaign⁴⁹ that is held annually and has raised approximately 2.1 billion yuan (approximately US\$309 million as of Feb 2019).⁵⁰ Their WeChat communications platform is nearly ubiquitous in China, and this platform leverages WeChat's daily functions to also tap into a very large charitable donor base.

GETTING STARTED: SEVEN STEPS TO SUCCESSFUL GLOBAL FAMILY GIVING

Note that long before embarking on a formal commitment or process for involving family members in joint philanthropy, it is critical for parents and grandparents to personally engage in charitable activities such as volunteering and funding charitable initiatives and organizations. Involving children from an early age is key to instilling the habit and passion for altruistic behavior throughout later life.

1. **HOLD A FAMILY MEETING:** Assemble family members to discuss the idea of working together on charitable projects and donations. Determine if there's true interest and commitment. Identify one or two "champions" to lead. Explore preferred methods of communication for the future: in person meetings, Skype/FaceTime, email etc.

- 2. DEFINE FAMILY VALUES:** Explore personal priorities and passions. Hone in on those which are common among most family members. Outside facilitators have enjoyable, interactive exercises which can help with this process.
- 3. DEVELOP THE FAMILY VISION:** Determine the family's goals and unique characteristics. Ideally articulate this into a family mission statement, and further distill into a philanthropic mission statement.
- 4. FIRST YEAR OF JOINT GIVING:** Decide a common cause. Each family member donates time and/or money in his or her respective location to that cause. No need to rush to nail down a structure yet. Evaluate success at year end and use this experience to mold future process.
- 5. IDENTIFY STRUCTURES, LOCATIONS AND ORGANIZATIONS** which could serve as the central point for family members' funding. Decide on "headquarters" and an entity to which most family members will donate some of their philanthropic funds (often a Donor Advised Fund). Parents and/or grandparents may contribute all the funds during early years, but to have all family members feel truly involved as the years pass it will be important to have all levels of family members contribute.
- 6. MAKE A JOINT GRANT** from the entity and/or work jointly on a project. Initially focus on one or two causes based on family values and vision.
- 7. SET UP A FAMILY FOUNDATION:** This larger and more formal commitment is not for every family. However, for families with members from upcoming, as well as older generations who have a passion for philanthropy and a desire to continue the family legacy, a family foundation may be very appealing. If so, families are strongly encouraged to engage an advisor to guide them in the many legal, tax and administrative issues. It is also advisable to form a board, sub-committees and junior boards to involve family members from various branches and train rising generations. Family foundations are typically funded by family elders (often through bequests).



CONCLUSION

For wealthy families, the world is shrinking. At the same time maintaining family bonds and a family legacy are increasingly important. Family philanthropy on a coordinated, global scale is a natural answer. This fast-evolving area presents great opportunities for individuals, families, communities and the world.

People feel good when they give and, despite differences in languages, religions and customs among countries, for the most part governments and religions encourage philanthropy.

Further, the most popular charitable causes are remarkably similar regardless of country or creed. Helping those less fortunate is almost always at the top of the list. It may be articulated as making outright gifts to the poor and needy, or as the more overarching goal of reducing world poverty and providing humanitarian relief. Other key themes include supporting a specific religion, educational institution, or medical facility or disease. Regardless, all focus on a public benefit.

Multinational families are encouraged and energized when they learn of this commonality. Suddenly, despite long distances and borders between family members, joint family philanthropy doesn't seem so daunting.

However, as illustrated in this paper, challenges abound. Families and charities need expert help. This starts with getting family members from multiple generations and in many time zones and cultures all committed and passionate. Ongoing guidance is needed as the family defines its mission, values and vision which will guide their philanthropic direction. Technical advice regarding structure, situs and the mechanics of maintaining family philanthropy on an ongoing basis are clearly key. Expert advisors, from wealth managers to nonprofit staff, play a critical role.

APPENDIX:

Comparing Options for Global Philanthropy

| | COST TO ESTABLISH AND MAINTAIN (EXCLUSIVE OF GRANTEE VETTING) | TIMELINE NECESSARY TO ESTABLISH | EASE OF DISTRIBUTION PROCESS | ENGAGEMENT OPPORTUNITIES BETWEEN DONOR AND GRANTEES | TAX BENEFITS TO DONOR | ONGOING ADMINISTRATION |
|--|---|--|---|--|--|--|
| Direct giving to charities in home country including “friends of” organizations | No cost other than postage or credit card fees | N/A | Simple to give online or mail contributions | Can vary greatly from minimal to high donor involvement as volunteer or board member with grantee organization | Contributions to home country charities will generally receive maximum tax deductions or tax benefits | N/A |
| Direct giving to charities in foreign countries | No cost other than postage, credit card fees or foreign transaction fees | N/A | Varies as some countries have strict rules regarding cross-border transfer of money and additional reporting requirements may apply | Can vary greatly depending on donor's ability to visit grantee's location but volunteer opportunities may be available | In many countries, direct gifts to foreign charities receive no tax deduction or benefit | N/A |
| Participation in a giving circle making grants to charities in foreign country | Giving circles often require an initial contribution to join and may require a small administrative fee for meetings etc. | Can be established in a few days with a host organization such as a community foundation or informally among members | Giving circle members collectively decide on grants so meetings or other communications are required to identify grantees and make distributions, grants may be subject to foreign country restrictions on cross-border transfers and additional reporting requirements | Giving circles often engage in volunteer activities with grantee organizations but it will depend on members' access to the grantee's location | In many countries, direct gifts to foreign charities receive no tax deduction or benefit, however if giving circle is hosted by a charitable organization in home country and gifts are made to host organization, tax benefits may be available | Periodic meetings and communications among the members |

| | COST TO ESTABLISH AND MAINTAIN (EXCLUSIVE OF GRANTEE VETTING) | TIMELINE NECESSARY TO ESTABLISH | EASE OF DISTRIBUTION PROCESS | ENGAGEMENT OPPORTUNITIES BETWEEN DONOR AND GRANTEES | TAX BENEFITS TO DONOR | ONGOING ADMINISTRATION |
|--|--|---|--|--|---|--|
| Establishing a donor advised fund in home country | May be subject to minimum contribution to start and administrative fees to sponsoring organization | Can be established almost immediately with a sponsoring organization | Many donor advised funds offer online platforms to enter grant recommendations making giving very simple, however DAF grants to foreign charities will require expenditure responsibility or an equivalency determination performed by the sponsoring organization | Generally minimal – DAF donors often prefer to remain anonymous | Tax benefits are received when assets are contributed to the DAF and generally receive the maximum tax benefits in home country – no additional tax benefit received when grant is transferred to grantee | Sponsoring charities may require minimum grant activity and charge administrative and investment fees |
| Establishing a family foundation | Dependent on the country, incorporation and government approval can be expensive and may require hiring legal experts in country | Dependent on the country, approval of a new charitable foundation can take up to a year or more | Significant grant rules and regulations may apply to private foundation grants and careful vetting of grantee is necessary, but granting from a private foundation located in the same country as grantee organizations is more efficient | Varies dependent on interest of donors | Tax benefits may be available in country when assets are transferred to the private foundation but some countries provide a lesser degree of benefits as compared to gifts to public charities | Grantee vetting, financial reporting, and other administrative requirements (dependent on the country) can result in significant costs to operate a private foundation |
| Establishing an LLC in home country that will engage in charitable giving | Incorporation is typically inexpensive and IRS approval is not required (in U.S.), may require legal expertise depending on scale and activities | LLCs can be formed in a month or less but should have documents such as a member agreement prepared | Because tax benefits are not available, little or no restrictions on distributions apply | Varies dependent on interest of donors | Generally no tax benefits are available when assets are contributed to the LLC, but LLC members may receive flow-through benefits when charitable distributions are made | Ongoing administration and financial reporting are required, flow-through taxation (in U.S.) requires preparation of statements to members |

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[21] At current exchange rates as of writing. Reported FY18 private funding for social sector was 700 billion INR. See: Anant Bhagwati, Arpan Sheth, and Deval Sanghavi. "India Philanthropy Report 2019: Embracing the field approach to achieve India's Sustainable Development Goals." *Bain & Company*, 2019. https://www.bain.com/contentassets/069bf9cf144e4b8bbddaa8a85386a5611/bain_brief_india_philanthropy_report_2019.pdf (accessed 11 November 2019).

[22] Reported giving was at HK \$11.66 billion in 2014, roughly \$1.5 billion USD at current rates. See: Hong Kong Research Office Legislative Council Secretariat. "Statistical Highlights." *Research Office Legislative Council Secretariat*, November 17, 2017. <https://www.legco.gov.hk/research-publications/english/l718issh03-donations-to-charities-in-hong-kong-20171117-e.pdf> (accessed 11 November 2019).

[23] Reported giving was £10.1 billion in 2018 or approximately \$13 billion USD at current exchange rates. Charities Aid Foundation. "CAF UK Giving 2019: An overview of charitable giving in the UK". *Charities Aid Foundation*, May 2019. https://www.cafonline.org/docs/default-source/about-us-publications/caf-uk-giving-2019-report-an-overview-of-charitable-giving-in-the-uk.pdf?sfvrsn=c4a29a40_4 (accessed 11 November 2019)

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[25] Caroline Needles, David Wolcheck, Grace Sato, Inga Ingulfsen, Larry McGill, Lauren Bradford and Natalie Ross. "The State of Global Giving by US Foundations: 2011-2015." *Council on Foundations*, 2018. <https://www.issuelab.org/resources/31306/31306.pdf> (accessed 10 November 2019).

[26] The classic example of an entity with multiple meanings is the "foundation". As discussed in a later section of this paper, while in Canada and the U.S. this is usually thought of as a charitable vehicle, in many civil law countries it can also be a substitute for a family trust. And in some more progressive common law jurisdictions foundation law is fast evolving to encompass some of the most sought-after features of corporations.

[27] Restoration projects focusing on historical buildings in Italy generated so much interest on the part of U.S. donors that the organizers of these campaigns graduated from using a basic crowdfunding site to a more formal fund under a recognized U.S. nonprofit. ["In the Name of Michelangelo – U.S. donors help restore the artist's tomb in Florence" See: The King Baudouin Foundation United States. *Who We Are*. <https://kbfus.org/about-us/who-we-are/> (accessed 11 November 2019).

[28] Jessica Bearman, Julia Carboni, Angela Eikenberry, Scott Diamond, and Jason Franklin. "The State of Giving Circles Today: Overview of New Research Findings from a Three-Part." *Collective Giving Research Group*, November 2017. <https://philanthropy.iupui.edu/doc/institutes/giving-circles2017-executive-summary.pdf> (accessed 11 November 2019).

[29] In a rare example of a sponsoring charity refusing to make a grant that a donor recommended, the Jewish Community Foundation of Los Angeles declined to distribute funds from a donor's DAF to IfNotNow, due to its "disruptive tactics" used against the organized Jewish community and its lack of transparency. See: Ruth McCambridge. "When Donor-Advised Funds Exert Political Judgment over Grants." *NPQ Nonprofit Quarterly*, December 9, 2016. <https://nonprofitquarterly.org/donor-advised-funds-grants-for-non-profits/> (accessed 11 November 2019).

[30] Adam Bisby. "Popular charitable giving accounts 'combine the head, the heart and the wallet.'" *The Globe and Mail*, January 28, 2019. <https://www.theglobeandmail.com/investing/globe-wealth/article-what-kind-of-giver-are-you-five-donor-profiles/> (accessed 11 November 2019).

[31] Charities Aid Foundation. "What is a Donor Advised Fund", <https://www.cafonline.org/my-personal-giving/long-term-giving/donor-advised-funds> (accessed 13 November 2019).

[32] Advisors typically suggest a minimum of \$5 million (US) as a viable sum to warrant the costs and time associated with a private foundation

[33] In the U.S., private foundations must distribute at least 5 percent of their assets annually to charities. However, there is currently no minimum or maximum distribution for DAFs

[34] According to the National Philanthropic Trust's 2018 DAF Report, the average payout of donor advised funds is around 20%. National Philanthropic Trust. "The 2019 DAF Report." *National Philanthropic Trust*. <https://www.nptrust.org/reports/daf-report/> (accessed 11 November 2019).

[35] In the U.S., DAFs are often compared to private family foundations, which have a lower cap on the annual income tax deduction.

[36] In early 2019 the Charity Commission of the UK removed two founding trustees of the UK charity The Suyuti Institute for breaches of charity law akin to self dealing.

[37] Giving USA. "What is Giving USA." <https://givingusa.org/> (accessed 11 November 2019).

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[38] The FATF included nonprofits in their series of special recommendations for governments to focus on, calling them “particularly vulnerable” to terrorist financing in its Recommendation 8. It has since revised this language and advocated that governments adopt a risk-based approach in regulating the nonprofit sector.

[39] Those wishing to wash ill-gotten profits into the economy have done so under the cover of charities. They may loan illicit funds to a charity, only to have the charity repay them with cleansed funds or make grants to related projects or people in other countries.

[40] Sue E. Eckert, Kay Guinane and Andrea Hall. “Financial Access for U.S. Nonprofits.” *Charity and Security Network*, February 2017. [https://www.charityand-security.org/system/files/FinancialAccessFullReport_2.21%20\(2\).pdf](https://www.charityand-security.org/system/files/FinancialAccessFullReport_2.21%20(2).pdf) (accessed 11 November 2019).

[41] Oxfam International. Understanding Bank De-Risking and its Effects on Financial Inclusion: An Exploratory Study. *Oxfam International*, November 2015. https://www-cdn.oxfam.org/s3fs-public/file_attachments/rr-bank-de-risking-181115-en_0.pdf (accessed 11 November 2019).

[42] For more in-depth explanations of country specific laws see: Council on Foundations. *Country Notes: Curated Resources for Making Grants Globally*. <https://www.cof.org/country-notes> (accessed 11 November 2019).

[43] The Asset. “Asia’s uber-wealthy are fueling growth in impact investing.” *The Asset ESG Forum*, May 9, 2019. <https://esg.theasset.com/ESG/36895/asias-uber-wealthy-are-fuelling-growth-in-impact-investing-> (accessed 11 November 2019).

[44] Effective January 1, 2019, companies listed on the Hong Kong Exchanges and Clearing (HKEX) must produce detailed reports on their ESG strategies and progress.

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[48] “Business for Good, Maximizing the Value of Social Enterprises in Asia,” Center for Asian Philanthropy, 2019

[49] Donations to 9.9 Charity are made through Chinese based social apps Weixin and WeChat

[50] Pony Ma Huateng. “The World in 2019: Doing good by doing tech.” *The Economist*. <https://te.tbr.fun/doing-good-by-doing-tech/> (accessed 11 November 2019).

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For more than 20 years, the Council on Foundations has played a key role in facilitating responsible and effective international grantmaking. We make it our mission to support U.S. philanthropy's engagement globally through cross-border grantmaking, but also by applying a global perspective to domestic philanthropy within the United States.

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