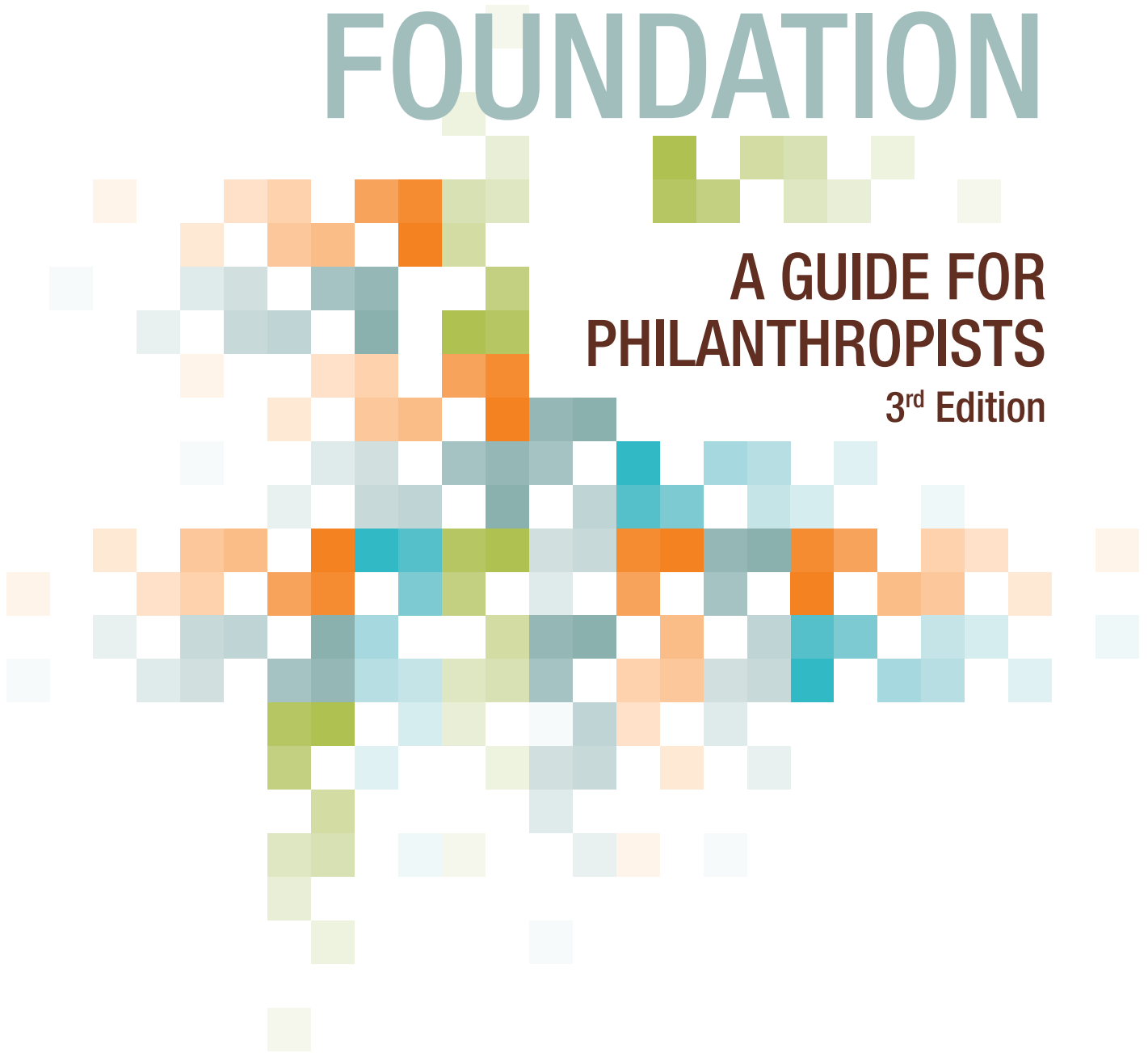


STARTING A FOUNDATION

**A GUIDE FOR
PHILANTHROPISTS**

3rd Edition



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OUTLINE OF THIS GUIDE

Would you like to be more engaged in your giving? Do you want to have a sustained impact on your community or in an area that motivates you?

Are you looking for ways to involve others in your family? These are some of the questions you may be asking yourself if you are considering starting a foundation.

Choosing the giving option that suits you best starts with an examination of your motives, personal style and context, and value and interests. Legal and tax considerations are important to your decision, but your individual preferences are even more critical. PFC offers guidance to help you determine your own highly personal answers.

SECTION 1 addresses the question: Why become involved in long-term giving? We have summarized some of the most frequently heard motives.

SECTION 2 outlines the choices available for long-term giving such as, giving through a public foundation or donor-advised fund, and giving through a private foundation.

SECTION 3 is a series of questions and answers. These are some of the key issues to be considered when determining whether a private foundation is the right option for you: How much time can you commit? How much control and involvement do you want in the foundation? What are some of the administrative implications?

Throughout the guide, we have included the stories of individuals who started a private foundation. From newly established foundations to fourth-generation inheritors, these contributors provide inspiration for the emerging philanthropist.

We hope you'll find this publication useful and a helpful tool in discovering the rich possibilities and rewards of personal philanthropy.

SECTION 1

WHY GIVE?

I think philanthropy can give meaning to your life. I don't want to have a lot of regrets when I'm 85, 95. I want to be able to say, you gave back, you made a difference.

Co-founder
2nd generation foundation

Every year, more private foundations are being created in Canada. The number of donor-advised funds is also growing. Long-term giving is more and more popular among Canadian philanthropists.

Long-term Giving

What do we mean by long-term giving? We use the term in this guide to refer to a more structured type of giving, which takes the form of a fund, either endowed or periodically renewed, and which typically engages the donor with recipients in a more sustained way. This guide does not address direct or planned gifts to charities made in response to a general fundraising appeal and which do not directly and personally engage the donor, even through an intermediary.

Long-term giving refers to consistent, structured and engaged giving. In business, it would be a business plan; in philanthropy it is a giving plan.

Motivations for Giving

There are many motivations for becoming involved in long-term giving. In the following section, some of these motivations are briefly described. We interviewed nine Canadians who, either by themselves or through their families, have chosen to establish foundations. While these are very different people, their motives are surprisingly consistent: to become more personally engaged in philanthropy, to apply their expertise and experience to the management of their philanthropy, to take advantage of the personal flexibility offered by a foundation and to involve their families in the act of giving with them.

1. An Opportunity to Give Back to Communities

The first, and perhaps the most important reason that many philanthropists cite for their decision to engage in structured giving is a very personal one: it is their desire to give back to the community and to society. They feel that their personal wealth has been earned with the support of the communities in which they live and work. They are fortunate enough to be able to give some of it back by making a significant and sustained gift that will benefit many others. It allows them to contribute to the communities and institutions they choose. Altruism is indeed a major driver of the creation of foundations.

2. An Opportunity for Personal Engagement

Becoming more involved in your giving often reflects your desire to shape your

gift more personally. As a long-term donor, you can be engaged in choosing the projects and people you give to, in influencing goals and desired outcomes, in observing the impact of the funds and other support that you give, and in sharing the lessons learned and results with others. While funds can vary dramatically in size and focus, donors report that they consistently return the same rewards for those who become engaged: rich learning experiences, and a great sense of accomplishment and satisfaction. Many donors say that they work harder than they ever have before – because they want to. The more engaged they become, the more satisfying many of them find their involvement. Foundations have a way of engaging your skills, talents, experience, and knowledge very deeply.

It's money for the common good. I think there are a lot of philanthropists who are taking that responsibility seriously.

Executive Director
2nd generation foundation

I didn't know entirely what I was getting into when I started. If I hadn't become so personally involved, I'm not sure I'd be doing today what I'm doing. I'm completely passionate about my work with the foundation. I can't imagine my life any other way.

Co-founder
1st generation foundation

SECTION 1

The foundation has opened up lots of opportunities for us. In some cases, we end up doing volunteer work for the organizations we fund. There are so many people out there doing truly great things – it's been hugely inspiring for us to be able to work with them.

Executive Director
3rd generation foundation

MAKING A DIFFERENCE

A businessman in mid-career with a young family, and his brother, made a smart investment in a company that made them instant millionaires. Sadly, the brother, who had no family of his own, died prematurely of cancer. Before he died, the businessman made him a promise: that his unexpected wealth would go into a charitable foundation. He set aside the money as promised, in an endowment, and managed the investment so that it would grow. Initially, he continued to make gifts from the foundation to the hospital that had taken care of his brother.

He didn't spend much time on it at the beginning. But, being a hands-on businessman, he eventually started asking questions about how the money was being spent, and discovered that it was difficult, if not impossible, to get a clear idea of the foundation's impact on the hospital. So he decided to make more thoughtful decisions about his grant-making. He started spending more personal time on foundation work and discovered that there were pressing needs in his community, where his brother's foundation could make an important and visible difference. He changed the foundation's focus, started visiting and interacting directly with community organizations, and became aware of a larger network of active foundations making significant changes in their communities. He became not only an active philanthropist but also a believer, and indeed a missionary for foundation philanthropy. Today, he actively champions the creation of new foundations, describing the enormous and unexpected personal satisfaction that he is getting from what he does.

3. Uniting the Family around a Common Purpose

Family foundations can be rallying points for extended family members. Foundations allow several family members and even generations to bring together their various skills, talents, and interests for a shared cause. Many founders and trustees of family foundations describe the family foundation as a positive and engaging opportunity for the family to work together. A family foundation can also be instrumental in shaping common values and family identity. A foundation structure is an excellent vehicle to teach younger generations the values of philanthropy, and other important skills, such as investment management, resource allocation, project evaluation and assessment of impact.

4. Creating a Sustainable Legacy

Because a foundation or a donor-advised fund generally makes grants from the return on invested assets, the foundation or fund can make funding commitments that last many years (as long as the assets remain undepleted). While there is no requirement to hold funds in perpetuity, the majority of foundations choose to grow or maintain their assets rather than to spend them down in the long term. Not all donors choose to have a foundation that endures beyond their lifetime. But whether for their lifetime, or for an enduring purpose, donors create foundations to leave a lasting philanthropic imprint on society. The desire to create an enduring legacy is closely related to the desire to give back in a sustained way to one's community, possibly to return the assistance that was given to the donor at another stage in his or her life.

I would have missed out hugely if I had decided to give to charity by another vehicle. The private foundation allows me to be involved at a much deeper, richer level. We're doing things we never would have thought of doing if we hadn't been involved personally through this foundation.

Co-founder
1st generation foundation

My dad is a doctor working in Montreal. I'm by profession a social worker and consultant. If it weren't for the foundation, I would never have had the opportunity to work so closely with my father, my cousin, my sister, and my younger cousin.

Executive Director
3rd generation foundation

SECTION 1

If you're giving money away to charity every year, you get a tax deduction, and you support a charity. But if you have a foundation, two things happen: you get the tax deduction, and you can still manage that capital. If you're used to managing your money, with a foundation, you get the same satisfaction of managing it and seeing it thrive in successful projects.

Chairman and President
1st generation foundation

5. Getting Involved in Higher-Risk Philanthropy

The grant-maker in a private foundation has considerable freedom to decide which grants he or she makes individually or with family and colleagues. There is one important rule. The federal government requires that all foundation grants must be made to registered charities. But there are few other restrictions on the choice of recipient or on the way in which decisions are made by the grantmaker. Many foundation donors are able to spot great ideas, react quickly, and take risks on the unproven.

A grant made to that particular innovative idea or approach just might contribute to the next major break-through in cancer research, in youth mental health or in preventing school drop-out. The ability to respond quickly without conditions, to make multi-year commitments and to try out new approaches are particularly attractive characteristics to many philanthropists. In many cases, long-term philanthropists are extremely motivated to make change in the world around them. To do this involves risk-taking. A private approach to giving enables them to do this.

SUSTAINING A LEGACY

An older couple with a successful business started a foundation. The wife, who had been a social worker, was especially keen to do so, having been involved for many years in fundraising for various causes, and knowing what it felt like to be on the asking side. Soon after the foundation was set up, the husband passed away. Following her husband's death, the wife had the foundation to keep her involved in her community, developing connections with projects that she cared about deeply. She says, "it kept me in touch with people, with a world that I was part of." More recently, her two daughters have become more directly involved with the foundation. All three are now selecting projects together, visiting sites and sharing their common interest in supporting grassroots charities. The family is discussing a succession plan so that the daughters can pursue the work that has been started, and will become even more committed to the work of the foundation. Today, they share something in common that all three find very personally rewarding.

6. Managing One's Own Assets

Endowments and private foundations provide you with a high degree of control over the management of the fund or foundation assets. Foundation directors can work with investment consultants or manage the investments of the foundation themselves. Individuals who choose to manage the foundation's investments

often do so because they bring to the job significant experience and expertise in asset management as well as the ability to tolerate risk. Indeed, many private foundations are created by individuals who have generated their assets in the course of their own careers and who feel confident in their abilities to manage and grow these assets in a charitable fund.

We consulted many different foundations and organizations and found that none of the models we saw suited what we wanted to do. We didn't want to hand over our capital to someone else to manage or decide where it should be distributed.

Co-founder
1st generation foundation

FULFILLING A PASSION

A foundation created in 1997 by a young entrepreneur reflects his passions for art, technology, and education, and his preferences for projects that are focused but borderless. “Our world is trans-national and we wanted to do our little bit to expand the cultural possibilities new technologies imply.”

The founder chose from the beginning to fill a unique niche, supporting artists and preserving art created with the help of technology. The foundation builds on the founder's considerable talents and expertise in these areas. From the beginning, the foundation made the decision to be a citizen of the world because new communications technologies transcend geographical boundaries. The young foundation wanted to help expand the cultural possibilities of new technologies, particularly the internet. Working through agency agreements with qualified donees, it prioritized emerging regions of the world, committing over half its grants to projects and artists outside Canada. This meant bringing together a staff willing to work and travel globally, a demanding requirement for a small foundation. The founder is deeply involved in the decisions of the foundation, lending his personal stamp to its work. His unique and lasting contribution is being made to the world's cultural heritage, shared through the World Wide Web.

SECTION 2

PLANNING YOUR LONG-TERM GIVING

How Do People Give?

When choosing which option is right for you, there are a variety of factors to consider. Creating a donor-advised fund within a community foundation, or creating a private foundation are two possible options. Each allows varying degrees of control, and each has specific characteristics. Of course you will want to speak with a trusted financial or legal advisor about the tax, legal and regulatory implications of your long-term giving option. But before these more formal issues are considered, you should think about personal aspirations, styles and preferences.

There are two long-term giving options reviewed in this guide:

- to develop a donor-advised fund managed by another foundation, such as a public foundation; and
- to establish your own private foundation.

This guide focuses on the option of creating a private foundation. Your choice of option may not be your final choice. It is certainly possible, and some donors do, evolve from one option to another. The point is to choose the vehicle that fits you best at a given time.

Checklist of Factors to Consider in Giving To a Public Foundation

Giving through a Public Foundation

Donors to public foundations can give in four ways:

- to the unrestricted funds of the foundation
- through a designated fund
- through a field of interest fund
- through a donor-advised fund.

Review this checklist as a way of assessing your motivations.

- **You wish to establish a legacy to the community by setting up a permanent fund.**
- **Your fund is relatively small, and you want to keep overhead costs and administrative tasks to a minimum.**
- **You would like to have a fund in yours, or another family member's name but don't want the work entailed in managing it directly.**
- **You do not wish to deal with grantseekers directly.**
- **You don't have the time to undertake due diligence in researching local opportunities or issues, or the effectiveness of grant-seekers.**
- **You like the idea of supporting an organization that is building an endowment for community benefit.**

SECTION 2



Giving through a Private Foundation

A private foundation is the most highly structured form of long-term giving.

The amount of time and effort involved for the donor may be greater, but the corresponding opportunities for engagement and reward are also higher. You should consider a private foundation if:

- You are interested in making a difference, through an organization that **reflects your interests**, and that can be adapted quickly to changing opportunities or evolving ideas.
- You wish to direct where the funds are spent and be more **personally engaged** with the process of giving and with the recipients.
- You are **seeking greater rewards** and willing to take **possibly higher risks** in your giving. Private foundations are better suited to a higher degree of risk because the donor takes ultimate responsibility. Much like an investor, the philanthropist is willing to accept a certain level of risk.
- You wish to have a more **hands-on experience** with grant-seekers, and are interested in developing grant-making skills.
- You wish to fund issues or programs that are outside your community, such as **national or international assistance** projects.
- You wish to **engage your family** or enhance family identity through a vehicle that brings the different generations together around a shared project.
- The endowment fund is of **sufficient size** to warrant a higher start up cost and/or administrative overhead, or you expect the fund to grow in future years.
- You want to be part of a **foundation network**, and perhaps collaborate with other funders. Again, this has to do with the degree of involvement and participation you wish to have. In many communities, there are local foundation groups that meet regularly to share information. Membership in a national network can provide you with access to other funders to share ideas and resources.

Review the **checklist** as a quick way of assessing your motives and preferences.

Checklist of Factors to Consider in Choosing a Private Foundation

- You want to manage invested assets directly
- You have some time to devote to foundation work
- You want to make your own assessment of grants
- You want to have an opportunity to involve members of your family
- You want to work in collaboration with other funders
- You want to work with or have closer interaction with grantees
- You want to fund new charitable projects, either local, national or international
- You want a tax incentive for a gift of cash or securities*

* You should contact a financial or legal professional for full details on the tax benefits. For example, the donor and family can continue to make personal donations through the foundation or they can make an initial 10-year gift.

SECTION 3

STARTING A FOUNDATION

So, you have reviewed the options in the previous section and the private foundation seems right for you. What do you need to consider before you launch the process of creating a foundation? This section is structured as a series of questions and answers to help you reflect more deeply on your choice and on the things you need to know before you start.

The advantage of the family foundation is that it's a family business. It's the business of philanthropy, and it's something that the family engages in together.

Executive Director
2nd generation foundation

We had to have a much better idea of what our focus was and what the logic to the Foundation is, because it's very difficult for someone to come in when those rules are not quite yet established.

Executive Director
2nd generation foundation

Focus, Values and Mission

Q&A

How important is it to have a particular mission? Do I need to know where I want to give?

If you already have a general idea, it is helpful to take the time early on to think it through and to clarify it. If you want to grant in the area of homelessness, for example, or environmental protection, or health research, the more specific you can be, the more easily you will be able to frame the goals of your giving through the foundation. A stated purpose or area of interest and/or geographic region will allow you to direct your efforts, to communicate better with potential grantees and to define your activities. But this depends on context and circumstance. Some foundations are clearly focused from the beginning.

Others are not, as family members pursue different goals. It may be easier to select a focus after a few years of experience in grant-making.

Whatever the case may be, *missions are constantly evolving*. The point is to take the time to be as specific as possible.

Q&A

How do I develop an area of interest into a purposeful grant-making foundation?

You can consult with community leaders or with other foundations already active in the community. You can hold a family and/or board retreat to discuss shared values, interests, and knowledge of the community. You can talk to experts and academics in your field of potential interest to consider critical unmet needs or emerging issues. Or you can begin with some initial grants and reflect on experience and outcomes after a period of time.

A consultant on philanthropic strategy and mission can be very helpful. There are many useful guides and articles to support you through this process.

Family Involvement

Q&A

Do I want my family involved in the foundation? Can they sit on the board? What about the younger generation?

The degree of family involvement depends on a number of factors. It is ultimately a personal and individual choice. There are no restrictions in a private foundation on the number of family members that can be involved. Members of the family

can certainly sit on the board. They are permitted to constitute a majority of the board if desired by the founders. In practice, the number of family members involved depends on the founders. However, it is important to think about family size, relationships among siblings, role of in-laws, and succession planning, if more members of the family are going to have a sustained involvement.

SECTION 3

If you're going to have a lot of related family members involved, set conflict of interest guidelines. Have some policies or a healthy discussion that is recorded for posterity for successive meetings on how personal interests should be dealt with.

Chairman
3rd generation foundation

I think there's also that generational thing that would have been useful to address from the beginning. If we were expected to be board members, it would have been helpful to sit down at the beginning and say, oK, so what are our collective expectations from this?

Executive Director
2nd generation foundation

GETTING INVOLVED

A young woman who played an important role in her family's successful business, decided to set up a family foundation after the business was sold. She did this because looking back at what she had most enjoyed in the business, and what had held the most meaning for her, was the foundation she'd established for the company and the work that went into it raising money and awareness for aids research. But why set up a foundation, without any direct philanthropic experience? She says, "I didn't want to just sign cheques to different organizations without being more involved."

In the early stages, she didn't know much about private foundations. She knew that she could learn by doing. And she did, taking courses with other family philanthropists and talking to as many people as possible. She was looking, she said, for something to throw herself into. After a few months of personal exploration and consultation, her foundation committed its resources to a new endeavour – building a "youth in philanthropy" initiative that engages youth in the granting process. She believes that young people will benefit hugely from an early involvement in making gifts to their own communities. "I knew that I wanted to make a difference on a local grassroots level... we don't need to take on the whole world to feel we've made an impact."

Q&A

How important is it to have a process for making decisions in our family foundation?

Family debates can lead to healthy disagreements or to unhealthy stalemates in decision-making. Once again, it is important to give this some careful consideration before proceeding with a family foundation that envisages active family involvement. There are many resources and advisors in this field and it is worth consulting them if the process of family decision-making needs more definition. Guidelines for your grantmaking can easily be prepared from existing examples or templates.

Q&A

Should we have rules about conflict of interest?

Yes, it is important to define such rules but they don't have to exist before you begin. The commitment to separation of the personal interests of family members from their duties and functions as board

members and staff is an important principle of ethical behaviour and of accountability for a private foundation.

Management and Governance

Q&A

How much capital do I need?

One does not have to be a multimillionaire to start a foundation. Indeed, the majority of private Canadian foundations have assets of less than \$1 million. There is no minimum requirement for capital endowments. Many foundations suggest that there should be enough invested capital to permit the foundation to meet an annual disbursement equal to a minimum 3.5% of invested assets without encroaching on its capital (unless this is desired by the donor). An initial endowment gift can be added to in subsequent years. You can contribute to the endowment and so can family members and friends.

Q&A

What are the general costs involved in setting up?

The costs of setting up should be carefully assessed. There will be costs associated with the legal and accounting expertise that you need to incorporate, register and organize the foundation. There may also be costs associated with office space and initial supplies, if the foundation is not sharing space with a family office or other related organization. You should estimate a minimum of \$5,000 up to a maximum \$25,000 (for more complex foundations) in fees and costs associated with start up, consider the operational costs on a yearly basis, which could be lower if you have a way of sharing expenses and using volunteer staff.

SECTION 3

We've struggled with the issue of succession over the last two or three years. One of the interesting things about a family foundation is that it's a business and it's a family. It has all the trials, tribulations and benefits of a family business. It's working together, getting to know one another, doing good. It's also people growing up in different families, maybe different values, disparate age groups, geographically diverse, different interests, philosophies and skills coming together to work in this family business.

Chairman
3rd generation foundation

FINDING YOUR FOCUS

In May 2001, facing a growing workload and increasingly poorly targeted applications, a 35-year-old foundation decided to undertake a review of its mission. historically, the family foundation had funded organizations serving families and children at risk in the greater Montreal and Toronto regions.

The seven board members agreed to start the review with three basic assumptions:

- to continue to address the needs of children at risk, which respected the wishes of the founder;
- to continue to operate the foundation as a family process, also a wish of the founder. (one operating option, discarded early on, was to turn over the capital to the local community foundation as a donor-designated fund) and;
- to make fewer but larger grants (\$50,000-75,000/annum) than in the past to help kick-start new projects and take a more 'satisfying' stake in a program or project.

Without any expertise in the genetic, psychological, medical, sociological, or educational areas of children's welfare and health, the board members realized that they needed help. After consulting with other foundations, the foundation developed an economical 'do-it-ourselves' review process. Six well-known experts in various fields of children's health were invited to present a series of lunch-hour 'tutorials' to the board. Each speaker educated the board in recent discoveries and directions in their particular fields. Within nine months it was clear that the foundation would re-direct its granting to fund research and innovative therapies addressing risk factors in early childhood development.

Q&A

How much time do I want/have to devote to managing my foundation?

You should determine whether you want to be personally involved in administration.

This could involve chairing the board, managing the foundation's portfolio, with or without the help of advisors, and, if you are directly interested in grant-making, visiting sites and dealing directly with grantees. This can draw on more of your time. You also need to consider your availability and interest.

Some foundation donors are not interested in a high level of personal involvement and turn over almost all management tasks to a family office or advisor, which

handles most of the administration. Others take on the administration as a full-time or part-time job, paid or unpaid. Yet others hire one or more staff (family or non-family) to take on some of the responsibilities. You need to situate yourself on this spectrum of involvement and decide whether you need a staff person or not. One way that some new foundations manage their time is by accepting proposals by invitation only, rather than through open calls for proposals. You can also restrict the volume of unsolicited proposals by being open and clear about the foundation's interests and guidelines. Realistically, it may take up to 18 months from the beginning to determine the level of time and energy required and what needs to be done.

Q&A

How much control do I want over investments? Do I need an investment manager?

As a founder and principal donor, it is very important for you to decide on how you want to manage the foundation's assets. You could do this with the help of your board, or you may rely on investment consultants and/or portfolio managers. As a measure of accountability and prudent management, you will want to establish both an investment policy and strategy according to your risk tolerance, keeping in mind that you need to generate enough return to meet the disbursement quota and other expenses. This is an area where you will want to seek financial advice before proceeding.

SECTION 3

Q&A

How long do I want my foundation to operate?

This is a strategic question that you should consider early on. The majority of foundations are created to promote sustained giving over time. Only a minority set themselves the goal of spending down in the lifetime of the donor. If a major motive of the donor is to engage family members and to enlist younger generations, or to create a permanent legacy in the community, then the

foundation's investment policy should be structured so as to grow its assets over time. If, on the other hand, the endowment is intended to be spent, then the gift will not be restricted and the donor will draw down on capital and plan for sunseting the foundation within a shorter period of time. There are a variety of factors to consider when determining how long you want the foundation to exist. There are pros and cons to each of these options. The table below lists some of the factors to consider.

SUNSET FOUNDATION	PERPETUITY
The founder has no family or no close associates to whom to pass on the foundation assets and activities	The founder has family members or associates he/she wishes to pass on the foundation to
The founder has a specific purpose that he/she wishes to achieve in his/her lifetime	The founder has no urgent goal that must be reached in his/her lifetime
The founder believes that the assets should be spent down as quickly as possible as a way of benefiting the community or achieving a goal	The founder believes that the foundation should be a continuing source of funding into the community
The foundation encroaches on its capital and runs it down over time in order to fund a substantial program of its own charitable activities	The foundation concentrates on grant-making, and while running its own programs may still be an option, the assets are maintained over time

Q&A

How do I set up a board?

You need to think carefully about the skills, experience and personal attributes of the board members. Some foundation creators select trusted legal and financial advisors as well as family or friends to be board members. Typically, boards of family foundations run anywhere between 5 and 10 members. If you are incorporated, there is a minimum of 3 directors.

Q&A

Should board members be compensated?

The remuneration of foundation board members is uncommon. In some provincial jurisdictions such as Ontario, it is prohibited by law. Most board members serve as volunteers. Reimbursement is allowed, and is relatively common, for expenses incurred in the course of board meetings and events, such as travel and accommodation expenses.

Q&A

What are typical administrative expenses? is there a general rule for foundation administrative expenses?

There is no general rule or requirement, but typically the expenses of endowed foundations range from 0.75% to 1.5% of their assets (not including investment management fees). Of course, if the foundation uses family or other volunteers, the operating expenses will be less than 1% of assets. Operating foundations, that is endowed foundations that run programs directly and have more staff, will find that they have recurrent costs that are a higher percentage of assets. Some typical administrative expenses include: legal, incorporation and registration fees, accounting and audit fees, office rental and supplies, staff salaries and benefits (if applicable), travel and subscriptions/memberships.

Q&A

How much must I give out in grants every year?

By federal law, a private foundation must disburse to qualified donees every year an amount equal to 3.5% of its invested assets. This is called the disbursement quota. Under certain circumstances, if a foundation is not able to meet this quota from its investment returns or donated funds in a given year, it can use excesses accumulated over a five-year rolling average of disbursements. If it cannot meet the quota by using previous excesses, or by encroaching on capital, then it can apply for administrative relief to the Canada Revenue Agency (CRA). Investment management fees are not eligible for inclusion in the calculation of the disbursement quota. It is important to pay attention to the requirement that you must make grants only to qualified recipients. These recipients, called qualified donees

by the federal government, are mostly Canadian registered charities; they could also include governments, the United Nations, certain foreign universities, and registered amateur athletic associations.

Q&A

Do I need to report on the activities of my foundation?

There is no legal requirement to issue a public annual report. However, many foundations choose to do so and/or to set up a Web site where they describe their activities. Each year, every registered charitable organization, including foundations, is required to submit a report to CRA outlining its activities and disbursements made in the previous fiscal year. Foundations must declare their assets as well as their grants, and list the names of their board of directors. Information in this report is made publicly available online by the CRA on its Web site, although some personal information is withheld.

SECTION 3

Structure and Tax Issues

Many answers to governance and structural questions can be found in *Good Governance: A Guide for Canadian Foundations*, available from PFC.

Q&A

Do all foundations have the same structure?

No. Once you have made the decision that you wish to establish a foundation, there are a number of organizational steps you must complete. First, you must decide what your legal status will be.

Foundations can be structured as:

- a trust (a separate legal entity established by a trust document and managed by trustees).
- a not-for-profit corporation (incorporated under provincial or federal acts).

- an unincorporated association of individuals. An unincorporated association is not a separate legal entity and has no legal status apart from its members.

Second, all foundations whether incorporated or not, must also register with CRA as a charitable organization. (See also the question on the following pages on how to register a charity).

Third, you must decide how the foundation will be funded. Most private foundations invest their financial assets, and disburse the investment income, with a minimum prescribed amount each year (3.5% of the value of the foundation's invested assets). Some endowed foundations use part of their income to run their own charitable programs or services. There is no statutory limitation on private foundations and they can devote 100% of their resources to direct charitable activities. Public foundations must disburse 50% or more of their income on grantmaking. Occasionally, a donor will prefer to make annual

contributions to a foundation. You should consult your financial and/or legal advisor about which structure is best suited to your particular situation.

Q&A

How do I incorporate the foundation?

One can incorporate a not-for-profit corporation in accordance with the terms of either federal legislation or applicable provincial legislation.

Incorporation provides limited liability for the members and is often the legal structure required by governments for an organization to be eligible for funding or to carry out certain activities. Steps to be taken usually include the drafting of articles of incorporation, a name search, name registration and the filing of an application for incorporation. There are some fees involved, but we do recommend that you invest in professional legal advice before proceeding.

You do need to define your charitable objective in order to register with CRA. The standard object for a grant-making foundation generally is to receive and maintain a fund or funds and from time to time use the capital and income therefrom to make grants to qualified donees as defined under the *Income Tax Act*. You should consider the objects carefully in light of what you wish to do with the foundation. If you intend to do overseas grant-making, or you wish to operate charitable programs, you will need to be more specific in the objects.

Q&A

Are there options other than incorporation?

A donor who does not wish to incorporate may choose to use a fiduciary trust (set up in their will) which will be registered with CRA after their death, or the donor may register with CRA during their lifetime

using an inter-vivos trust (which operates under a Trust deed prepared during the lifetime of the donor).

Trusts are regulated provincially. A trust structure allows the donor to use a trustee such as a corporate trustee (often where there is no family to replace board members) to administer the trust foundation under the donor's instructions into perpetuity. An inter-vivos trust is often the preferred option by donors wishing to disburse the resources during their lifetime.

There are other giving options that are designed to enable you to make a substantial gift without depriving yourself of the income on capital during your lifetime, such as a charitable remainder trust, or a charitable gift annuity. A financial advisor or gift planner could provide details.

SECTION 3

Q&A

How do I obtain charitable status?

When a charity is registered with CRA, it is registered either as a charitable organization, a public foundation (e.g. community foundation) or a private foundation (e.g. family foundation). The application to the Canada Revenue Agency for registration as a charity requires completion of a form.

There are a number of attachments required for the application to be complete:

- An official copy of the governing documents under which the foundation was established.
- A statement of activities the foundation intends to carry out. This is the most important attachment as the wording must not simply be a repeat of the legal objects but must state clearly exactly how those objects will be fulfilled.

- Financial statements for the last completed year or, if not in operation, a proposed budget or estimate of income and expenditures.

- A list of officers of the foundation.

In more complex cases, it is sometimes helpful to file a completed draft application with the Charities Directorate of CRA requesting an opinion on the acceptability of the wording of the objects BEFORE applying for registration. The reason for doing so is to avoid the extra time and expense entailed if CRA rejects the application for charitable registration because the objects are not satisfactory. The registration process can take between three and six months.

Q&A

Are there tax benefits to creating a private foundation?

Yes, as a donor to your own foundation, you receive the same tax benefits as you would if you donated to a public charity or to a public foundation. You would receive a tax credit for any donation of cash or traded securities. The first \$200 of donations receives a credit that is calculated at the lowest marginal tax rate (depending upon province of residence); donations in excess of \$200 receive a credit calculated at the highest marginal tax rate. In addition, if you donate assets in the form of traded securities, you will receive a tax credit for the market value of the securities at time of donation, and you will not have to pay any capital gains tax on the appreciated value. For more details, you should consult your financial or legal advisor.

CONCLUSION

If you have picked up this guide and read it through, it is because you and perhaps your family have a strong interest in creating a charitable foundation, as an enduring way of contributing to the well-being of your community and your world.

We hope that this guide has helped you think through some of the key questions that you need to ask yourself before you move forward. This is not an easy choice. But it is an enormously rewarding choice, as many of the stories and personal testimonies suggest.

One of the best ways of learning and strengthening commitment to this form of philanthropic activity is to share the experience with others. Through the national network of Philanthropic Foundations Canada, members and individual foundations exchange, support and learn from each other. The resources of Philanthropic Foundations Canada are freely available to new philanthropists through our Web site www.pfc.ca. Additional resources are available through contact with our staff.

PFC offers two useful guides for private foundation donors: *Good Governance: A Guide for Canadian Foundations* and *Good Grantmaking: A Guide for Canadian Foundations*.

We hope that the stories and information in this guide have inspired you to go further and to embark on what may be for you a truly compelling and enriching form of long-term engagement in your community.

SECTION 4

RESOURCES

THINKING ABOUT STARTING A FOUNDATION?

The online version of this guide and other grant-making resources and tools are available at www.pfc.ca.

About Foundations

Philanthropic Foundations Canada

PFC is a national member association of grant-making foundations. PFC provides resources on starting and managing a foundation and on many other topics ranging from grant-making to trends in philanthropy and the voluntary sector in Canada. PFC organizes networking activities that provide regular opportunities to exchange information and meet with other grant-making foundations. Need resources and tools about grantmaking? Visit the PFC Resource Library at www.pfc.ca for the following:

- Are you looking for information on the Canadian foundation sector? Go to Canadian Foundation Facts.
- Are you looking for resources and tools on grantmaking? Go to the Resource Library.
- Are you looking for information on what's happening in Canadian philanthropy? Go to the President's blog.
- Are you looking for stories and profiles of Canadian foundations and grantmakers in action? Go to Profiles in Philanthropy.
- Are you looking for collaborators and funders with shared interests? Go to Funder Affinity Groups.
- Are you looking for other philanthropic organizations and information sources? Go to About Philanthropy.



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