

# What's next for you?

## Building your legacy with a private foundation

Many owners find it difficult to part company with the business they have nurtured and developed into a successful enterprise. Having devoted so much time to their business it becomes a part of their identity, and it can be hard to replace the sense of purpose and fulfillment it represents. When the exit phase of the business life cycle approaches, many business owners will ponder what is next for them and for the business that has been their life's work.

After transitioning away from their business, many business owners struggle to manage their newfound freedom, and may experience a sense of loss of the identity and community that their business once provided. It can be a disappointing end to a venture that gave the owner pride and a sense of accomplishment. A thoughtful transition should be a multi-year process that provides ample opportunity to focus on how to use that freedom to provide purpose and community, and to transform the business into a lasting legacy.

The business owner will want their legacy to continue after the business, and the key is to find activities that match the values and preferences of the former business owner. One way to enhance your legacy and develop identity and community post-business – and to enhance your legacy – is to explore charitable giving.

Do you want to have a sustained impact on your community or in an area that interests you? Would you like to take a strategic approach to your giving? Do you want to involve other family members in your giving, or to pass on your philanthropic values to your children and grandchildren? There are many ways to give meaning and structure to your philanthropy and a private foundation is one such way.





### What is a private foundation?

A private foundation is a philanthropic vehicle that can provide great flexibility for charitable giving by you and your family. It is constituted and operated exclusively for charitable purposes and can be structured as a trust or a not-for-profit corporation. Most foundations fulfill their charitable purpose through the disbursement of assets to registered charities or other qualified organizations. Private foundations can also carry out their own charitable programs.

### What are the advantages of a private foundation?

A private foundation provides flexibility for donors wishing to take a more strategic and long-term approach to giving. The donor and the donor's family are generally trustees or directors of the foundation. As such, they remain in a position of influence or can control many aspects of the foundation's operations including decisions on:

- How assets owned by the foundation are invested
- Distribution of income earned by the foundation
- Grants made by the foundation to registered charities

The foundation can be named for the donor or the donor's family. This is an opportunity to create a lasting philanthropic legacy that survives the founder's death and can be created in perpetuity.

### Is a private foundation right for you?

If you are considering giving through a private foundation, there are some key factors to be taken into account:

- Would you like to have an organization that reflects your interests?
- Do you wish to be personally engaged with the process of giving and directing how the funds are spent?
- Do you want to engage your family in a cause or project in your community?
- Are you interested in taking a hands-on approach with grant-seekers?

### How is a private foundation established?

To be a registered charitable foundation, the entity must apply for and be granted registered charity status by the Canada Revenue Agency (CRA). This involves crafting the

constituting documents of the foundation and other governance documents, such as the by-laws, and then making an application to the CRA Charities Directorate. It is advisable to retain a lawyer experienced in charity law.

### How do you fund and operate a private foundation?

Funding can come from personal, family or business assets. In order for a contribution to qualify as a gift for tax receipting purposes, it must be a transfer of property by the donor for which no consideration is expected. The operations of a private foundation are generally managed by directors or trustees, the majority of whom are related by birth, marriage or business. While the investment of the assets of the foundation can be managed by the trustees and directors, usually these powers are delegated to an investment management firm. Federal law requires that a minimum of 3.5% of the investable assets be disbursed each year for charitable purposes. A professional investment manager would ensure that capital growth is maintained, and the 3.5% disbursement quota is met from the annual investment revenue.

## To enhance your legacy – is to explore charitable giving

### The tax treatment of gifts made to a private foundation.

Gifts of cash and publicly-traded securities to a private foundation are eligible to be tax-receipted for the property's fair market value at the time the gift is made.

An individual can claim a donation tax credit to reduce personal tax liabilities, and a corporation can offset corporate tax liabilities, subject to an annual net income limitation. A special donation incentive applies when publicly traded marketable securities that are listed on the stock exchange are donated to a private foundation.

Many private foundations are created to coincide with a significant event in the founder's life, such as the sale of a business. The sale of a business can result in a tax liability as well as significant cash proceeds so the establishment of a private foundation at this time can provide some tax relief to the business owner. For more information on the tax treatment of gifts made to a private foundation, you should seek advice from a professional tax advisor.

Transitioning away from your business is not easy; pursuing philanthropic interests can be just as rewarding for business owners who are proud of the legacy they have created during and after their business endeavour. Creating and giving shape to one's charitable giving through a private foundation can be gratifying while also an exciting learning experience for those who are new to philanthropy. Planning in advance can make the philanthropic journey rewarding and more efficient.

We suggest that you speak with one of our philanthropic advisors at BMO Wealth Management about whether a private foundation is the right choice for you.



We're here to help.™

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