



If the Shoe No Longer Fits: Converting a Private Foundation to a Community Foundation Donor Advised Fund



Private family foundations have long been a visible and popular giving vehicle. Many private foundations are family-managed, with most run by friends and family members who serve as directors or trustees on a voluntary basis, receiving no compensation. Almost half have an asset base of less than \$1,000,000 per the Foundation Center in NYC.

As the number of private foundations has increased, the number of people wishing to convert them has also increased. Many factors weigh into the decision, most having to do with control and responsibility: grantmaking and investment control, and legal filing responsibility.

If foundation directors wish to continue philanthropic engagement, but seek a simpler charitable vehicle, then transferring the private foundation's assets to a donor advised fund at a Community Foundation is an attractive option.

Donor advised funds are a straightforward, accessible option to private foundations. The donor transfers assets to the Community Foundation; the Community Foundation invests the assets for potential growth; and donors and successor advisors recommend grants from their donor advised fund to charitable nonprofit organizations of their choice.

The Community Foundation does recordkeeping and due diligence, makes the grants as the donors request, and can publicize or protect a donor's identity (whichever is desired). Private foundations and donor advised funds have similar constraints on fulfillment of pledges and receipt of personal benefits.

The Community Foundation manages the assets in aggregate, to receive lower costs and higher rates of return. There are also programs to allow donors to recommend advisors to manage the invested assets, subject to due diligence and asset size.

Converting a private foundation to a donor advised fund is termed a termination by the IRS. The termination and distribution of a private foundation's assets to a Community Foundation is straightforward, with legal

requirements at the state and federal levels. A private foundation's federal tax status must be terminated to avoid penalties. IRC Section 507 outlines the requirements for a voluntary termination, and IRS Revenue Rulings 2002-28 and 2003-13 simplifies and clarifies many issues.

Here are the steps in termination/conversion, for winding up a private foundation and distributing its assets to a Community Foundation fund:

- **Adopt a plan of dissolution and notify the State Attorney General**
- **Distribute the assets of the foundation:** The easiest way for a private foundation to terminate is to transfer all of its assets to a public charity that has been in existence for at least 60 months, such as the Community Foundation. This type of termination requires no IRS notification, and the foundation is not liable for termination tax.
- **File documents with the Secretary of State** to dissolve the corporation.
- **File the final 990-PF.** The private foundation must file Form 990-PF for the taxable year in which the final distribution is made and check the box for "final return" at the top of the form.
- **Submit final state regulatory and tax filings.** The Attorney General requires a copy of the final 990-PF.

As private foundations grapple with how to maximize their charitable contributions and involve future generations in grantmaking decisions, Community Foundations should be considered a strategic and supportive giving partner.

Let your legacy make a difference now & forever.

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