CLUB FOUNDATIONS

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PART FOUR IN A SERIES ON CLUB PHILANTHROPY

Typical Club Foundations

Philanthropy in private clubs and the golf industry has been on the rise. This trend is reflective of an increasing desire by clubs and their members to share their wealth and support the local communities of which they are an integral part.

A related trend is the proliferation of club-related foundations to facilitate giving and encourage club members and the public to make tax-deductible contributions toward various worthy projects.

While many clubs have gifting programs that are not tax advantaged, this fourth article in the club philanthropy series will focus on some typical club foundations that provide an incentive to their members to get involved in various initiatives that qualify for favorable tax treatment by the Internal Revenue Service (IRS). We will also provide examples and details regarding how club-related foundations are being used to give readers ideas that can be implemented at their clubs as well as best practice ideas, cautions and recommendations.

Preservation Foundations

Many private clubs which occupy historic buildings have taken advantage of the opportunity to establish a foundation whose mission is to preserve its building. Members and the public may then make tax-deductible contributions to the foundation and the funds are used to pay for projects which preserve and restore the historic building.

To establish a preservation foundation, the historic building generally is listed on the National Register of Historic Places, which is maintained by the National Park Service of the U.S. Department of the Interior or similar state entity. The first step in the process normally is to work through the historic preservation office or similar entity in the state in which the building is located. There is an application process and if the state entity determines that the club's building has sufficient historical significance, it becomes eligible for listing on the National Register. Once this is achieved, the club may proceed with forming a corporation and the submission of Form 1023, Application for Recognition of Exemption, to the IRS, which is required of any entity which seeks tax-exempt status. For more information on historic club preservation, see "Celebrating Landmarks" in the spring 2016 issue of *Club Director*.

Issues and Recommendations

1. It is advisable to hire legal counsel and/or a CPA firm that is familiar with preservation foundations when developing Form 1023.
2. It is critical to work with a CPA firm that is experienced with preservation foundation accounting before projects are undertaken. Failure to do so could result in additional costs related to research by the CPA firm and/or improper accounting, which may have to be corrected later.
3. When spending foundation funds, be sure to stay within the bright lines of compliance with the IRS-approved mission. In this regard, every proposed project should be vetted by a third-party entity familiar with historic preservation projects to make sure it is in strict conformity with the approved Form 1023 and with the U.S. Secretary of the Interior's Standards for Historic Rehabilitation.
4. It is recommended that steps be taken to periodically invite the public to view the building and learn about its history through tours or presentations. Such activity demonstrates that the preservation work of the foundation is serving the public interest. The dates of the public events and the number of people participating should be documented. Virtual tours on the foundation's website would be another approach to consider and may avoid questions on private status.

Art and Library Foundations

Many private clubs have an art collection that has been accumulated over many decades. Many of the pieces of art have been gifts from members and some of the pieces have been purchased or even commissioned by the club. Such art is owned by the club and the value is normally reflected as an asset on the books of the club.

Art foundations are normally established by clubs to provide an incentive for their members to contribute pieces of art and receive a tax deduction for the market value of the painting or other art object. Other incentives for members or the public to contribute art to the club's art foundation (or to the club itself) would include the promise that the art would actually be displayed rather than sold or put into storage and/or that the piece of art will be taken care of and refurbished if necessary. Many art museums have restrictive gift acceptance policies and may not be willing to accept certain pieces nor give assurance that the piece will actually be displayed.

In regard to gift acceptance policies, a club or a club-related foundation, such as an art foundation, should have a documented gift acceptance policy that specifies the criteria that must be met when gifts are offered. Such a policy can provide guidance for future boards and facilitate the declination of unwanted objects for which the donor may want to receive a tax deduction, but which does not fit with the collection.

Club libraries and library foundations are similar in most ways to club art collections and art foundations and have similar issues.

Issues and Recommendations

1. It is recommended that steps be taken to periodically invite the public to view the assets owned by these types of foundations through tours or presentations. Such activity demonstrates that the collection and the work of the foundation is serving the public interest. The dates of the public events and the number of people participating should be documented. Virtual tours on the foundation's website would be another approach to consider as would the practice of periodically loaning books and art from the foundation's collection to other organizations to be displayed for public viewing.
2. The foundation must be careful to avoid private inurement. For example, an art foundation may spend money to restore art that it owns but may not spend money to restore art owned by the club or another party.
3. Foundations like art and library foundations that own tangible assets must be very careful to comply with their IRS-approved mission and other regulations. Noncompliance may result in the revocation of the foundation's tax-exempt status and the required divestiture of the assets by a transfer of ownership to another 501(c)(3) organization.

It is critical to work with a CPA firm that is experienced with preservation foundation accounting before projects are undertaken.

4. Because of the risk of required divestiture should the foundation lose its tax-exempt status (as discussed above), it is recommended that a club not transfer ownership of its art (or library) to a newly established foundation.
5. If the donor does not need a deduction for income or estate tax purposes, the donor should be guided to make the donation to the club rather than to the foundation. Having the club own the art or books provides more flexibility. If in the future, the club sold the items it could use the proceeds for whatever purpose it wanted. Whereas if the foundation owns the items and sells them, the proceeds must stay in the foundation and can only be used for purposes consistent with its mission. Another example would be that if the club owns the items, they could be pledged as collateral for a loan should the club ever need security for a loan. If the items are owned by the foundation, such a pledge to secure a loan to the club would not be possible.

Recognition Foundations

Another opportunity for clubs to use a foundation is by establishing what may be called a recognition foundation. For example, a club comprised of members who have a strong interest in sports and athletics could create a foundation to recognize achievement in sports and athletics. The mission of such a foundation might be "to encourage outstanding achievements in sports and athletics and to select for public recognition those individuals who have made significant achievements and contributions in sports and athletics."

One club that has had a sports foundation for many years orchestrates large banquets every year at the club to recognize local and sometimes national athletes for their achievements in various athletic endeavors. The sports foundation charges admission to the banquet and hires the club to provide the venue and the food and beverage for the event. The foundation makes some money on each ticket sold but they also sell sponsorships for the event to local businesses and individuals. For example, if a sponsorship is sold for $10,000, the sponsor might receive a table for 10 (valued at $100 per person) and other quid pro quo items, such as various sports memorabilia. In some cases, the quid pro quo items are donated to the foundation by third parties, but in other cases they are purchased by the foundation and given to the sponsor. The foundation makes a fair amount of money on each sponsorship sold, which is used to cover other expenses related to the event. The sponsor receives a tax deduction for the difference between the price of the sponsorship and the value of the quid pro quo items. And the club makes money by hosting the event. Any net profit that the foundation makes on such banquets is then available for other purposes, some of which is given to other 501(c)(3) entities that have an athletics or sports mission, typically for youth programs.

Issues and Recommendations

1. It is advisable to involve the public in this type of event through the selling of tickets to the event and/or the selling of sponsorships.
2. These types of foundations provide excellent opportunities to build the club's image and to enhance relationships in the community.
3. Recognition foundations with missions other than sports and athletics can also be considered, such as scholastic achievements, business achievements or a focus on achievements by minorities.
4. It is important to note that any revenue received by the club for allowing the event at the club is unrelated business income.

Humanitarian Foundations

Many clubs are populated by members who have significant wealth and the desire to help. A humanitarian foundation is a broad category that includes any foundation whose mission seeks to address human need, which can take many different forms. For a club-related humanitarian foundation to be successful, it must appeal to a significant constituency of the membership. Examples include foundations that benefit youth, provide scholarships or seek to address hardship.

One club has a club-related foundation known as the Charitable Society for Children. The foundation raises money from club members and employees and then channels the money to various children's charities in the local community. Each year the foundation invites members and employees to nominate local charities that have a mission to help children in some way. The charities interested in applying for a grant are invited to submit an application and a number of the charities are then invited to make a presentation to the foundation board. From this field, three charities are selected to receive a grant, which typically provides several thousand dollars depending on how much in contributions were received by the foundation that year.

Issues and Recommendations

1. In the example above, note that the foundation is disbursing money to other 501(c)(3) entities rather than to individual children. As mentioned in an earlier article in this series, a foundation is permitted to donate to other 501(c)(3) entities (even if their mission is different) as long they are in good standing with the IRS. Such status can be verified by accessing Publication 78 on the IRS website.
2. It is advisable to invite a broad range of charities to apply for grants like those mentioned above and to avoid charities that are too closely tied with individual club members or foundation board members in order to avoid the appearance of any conflict of interest.

The charitable leanings of the members are critical in establishing a successful foundation and designing the proper vehicle for their contributions. A foundation can be set up to accomplish several different functions as long as it is within the charitable purposes approved by the IRS.

The final article in the club philanthropy series will address the unique issues related to employee assistance and scholarship funds. CD

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