Why should a philanthropist set up a foundation?

As more transparency was forced on foundations in the 1990s, some philanthropists complained that it was revealing previously secret information about their private giving. They preferred to do good by stealth, and were no doubt further irritated by later requirements that foundations should also disclose information about investment policy, internal structure, trustee appointment methods, and senior staff remuneration. The riposte from 'openness' campaigners was that philanthropists now had the alternative of Gift Aid – which gave tax relief on one-off gifts far more flexibly than the previous seven- and four-year covenants. It wasn't quite as simple as that.

Gift Aid means knowing exactly which charity you want to give to, and having money available when the charity needs it and can use it sensibly. Having a foundation enables a donor to give tax-effectively when he or she can afford it, without having a particular charity in mind. Causes can be expressed in general terms (e.g., 'artistic endeavour') or as 'general charitable purposes'. Grants can be given when good applications are available. If no suitable project can be found, then the foundation can fund research or commission work proactively.

Another difference is that a foundation is usually expected to outlive the donor. This is because gifts to a foundation (whether lifetime gifts using Gift Aid or legacies using inheritance tax relief) normally create or increase capital endowment. Grants are made from investment income (after inflation-proofing), giving the foundation, often named after the donor, perpetual existence. The distinction turns on 'income vs capital' rather than on the tax concessions, as a gift or legacy to an operational charity can also be given tax-effectively to create named capital funds – but this is rarely done except to establish educational prizes or professorships, or within a community foundation. Conversely, a foundation, provided it has avoided the trap of 'permanent endowment', will have the legal power to give away all its capital, but few do so.

Lord Sainsbury of Preston Candover has successfully proposed an amendment to the Charities Bill that would give foundation settlors a previously unrecognised legal status. If the Bill goes through, foundation grants made during the lifetime of their settlor (or the settlor's spouse or civil partner) could be kept secret once more. This may not answer concerns that secrecy might on balance be damaging to the broader image of philanthropy. And some foundations, having seen benefits in greater openness, may not want to re-close the curtains. There will also still be a 'transparency' obligation where a foundation's settlor is dead (including one established by their last will), and on foundations established by companies or public appeals (including high-profile ones like Comic Relief and BBC Children in Need). But for living philanthropists, this may tip the balance against Gift Aid, allowing them to give secretly during their lifetimes and to provide for an eponymous foundation that will give in their memory after their death.

Apart from the secrecy issue, the foundation 'device' enables a longer-term approach to planned giving than does Gift Aid. Because giving is in two stages – 'to' and 'from' the foundation – it will feel less spontaneous. But even for the operational part of the charitable sector, instant gratification isn't everything. Foundations are welcomed as stable, non-government sources of funds.

Creating a foundation versus using Gift Aid

Creating a foundation	Gift Aid
Requires long-term planning	Gift Aid can be used spontaneously
Giving is delegated to trustees who must be found and be willing to give unpaid time	Giving is fully controlled by donor alone
Investment income is tax relieved	Tax relief is only available when a grant is made; until then, investment income belongs to the donor
A foundation can receive gifts whenever convenient to the donor, and grants can be made whenever the foundation receives good applications provided these are affordable within its long-term income	Timing of needs may not match the time when the donor has excess current income available
A foundation can receive planned capital gifts (including gifts of shares – though selling the shares must be considered in order to diversify the foundation's capital)	Only a minority of large charities have the capacity to handle capital gifts at donor's convenience.
Gifts to a foundation cannot be rescinded or reclaimed if the donor's circumstances change	The level of giving can match changes in the donor's fortunes
Particular beneficiary organisations need not exist, as funds can be given tax-effectively to a foundation with general objects	Named beneficiary organisations must exist and be able to receive gifts and administer Gift Aid
Gifts can be made to non-charities and individuals for charitable purposes	Gifts can only be made to charities with provable status
A foundation has a bureaucracy of its own, to administer incoming funds and grants – including (with large foundations) a director who must have a rapport with the donor	Gift Aid forms must be completed for each donation
A foundation's grants are public knowledge (though the expected new Charities Act may change this for living settlors)	Gift Aid donations are secret
A foundation can last indefinitely	The potential for Gift Aid dies with the donor, though a foundation can be created as a bequest in their will – but if a foundation is to be created anyway, why not during the donor's lifetime?
The donor's name can be attached to the foundation in perpetuity	The potential for publicity is unlikely to outlive the donation (unless the donor's name is given to a building or prize fund etc)

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