

## OVERVIEW

Under Canadian tax law, charitable organizations are generally divided into two categories: private foundations and public charities. Public charities are charitable organizations, such as hospitals, or public foundations such as the Jewish Community Foundation of Montreal (“JCF”).

The basic premise of a private foundation is that it is controlled by a small, related group of donors, rather than the public foundation which is controlled by a diverse group of, in essence, community volunteers. Foundations, both public and private, are excellent tax effective vehicles to create long-term philanthropy for a family.

Although contributions to a foundation are fully tax-deductible, it is not necessary to spend the dollars donated immediately. Instead, the foundation invests the capital donated and is only required to spend a portion of the income earned. Thus long-term philanthropy is created.

Often, Canadians faced with an extraordinary amount of income in a particular year and, thus, a large potential tax liability, choose to make a gift to a foundation to reduce the immediate tax bite and to smooth out charitable giving in the future.

## TAX –WISE GIVING STRATEGIES

### Marketable Securities

Individuals who have realized gains on sales of securities will often seek to take advantage of the fact that federal and Quebec tax legislation reduces in half the normally calculated taxable capital gains on the transfer of marketable securities to a charity. Unfortunately, this special exemption does not apply to transfers to private foundations.

Setting up a philanthropic fund within a public foundation using marketable securities has thus been a major initiative in Canada. Many members of the Montreal Jewish community have effected this transfer at the Jewish Community Foundation.

### Private Company Shares

Gifting private company shares (e.g. preferred shares) to a foundation can also be part of a tax effective gift plan. This planning tool is not available to private foundations, which is unfortunate because it establishes long-term family philanthropy, usually at a small or nil net cost to the family. The JCF is considered a Canadian leader in the creation of private company share gift plans.

## THE PHILANTHROPIC (DONOR-ADVISED) FUND

The perceived advantage of a private foundation vs. a JCF fund is that the family will have greater control of its donations in a private foundation. The JCF’s **philanthropic** or **donor-advised** fund eliminates this concern.

A family creating such a fund within the JCF can achieve major tax advantages, flexibility and, most importantly, significant personal satisfaction. A donor-advised fund is a gift that is accepted and managed by the JCF. The fund usually bears the name of the donor or the donor's family. The basic element of such a fund is that the donor offers recommendations for distribution of the fund's income to Canadian charitable organizations.

The capital will be invested with the other assets of the JCF and the fund's share of income from those investments will be allocated to it. On an annual basis, the family will direct the income to its list of Canadian charitable organizations, which the donors can vary from year to year. All gifts made in such a manner will be made in the name of the family fund. It is possible that a donor may wish to invest “his/her” fund at the JCF in a particular way; often, this wish can be accommodated.

## PRIVATE VS. PUBLIC FOUNDATIONS

Canadians are often confused over the English school system. If one attends a private school, such as Eton, one is said to attend a “public school”-confusing. It is the same with the moniker “private foundation”.

The affairs of Canadian charities are considered publicly accessible. Every charity’s tax return, form T3010, is available to the public. In the age of the Internet, it is easy for any Canadian to know the value within a private foundation, and the quantum and direction of every donation made by that private foundation.

The same is true of the JCF’s return. It is publicly accessible, **but** the information is for the **entire** JCF. No one can discern which donor- advised fund made which gift. This impedes the current practice of hundreds of charities soliciting private foundations directly based on information gleaned via the Internet. In essence, the private foundation is public, and the public foundation is effectively private.

## ACTION PLAN

The JCF presently manages over \$185 million, with a strong investment committee, internal controls, and lay leadership.

The JCF is prepared, on a confidential basis, to meet with our community’s families and their advisors to discuss the advisability of setting up a tax-effective donor-advised fund at the JCF, or the possible transfer of existing private foundations into the JCF.

## THE JEWISH COMMUNITY FOUNDATION OF MONTREAL

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## ADVANTAGES OF THE PUBLIC FOUNDATION

1. Ability to decide where the income will be used; in appropriate circumstances capital can be directed as well;
2. The right to make the donations in the name of the family fund;
3. Removal of administrative work. The record keeping, investments, cheque writing and all communication will be done by the JCF.
4. No income tax returns need be filed by the fund, as the JCF itself as a whole files the tax return.
5. As previously discussed, tax savings on the donation of marketable securities and private company shares are enhanced.
6. By creating a relationship within the JCF system, the donor can take advantage of the JCF’s experience in grant-making mechanisms to extend the donor’s philanthropic endeavours and make them more efficient;
7. An annual fee, 0.3% of capital, is charged by the JCF. However, this fee is quite small compared to actual costs of running a private foundation, which include incorporation fees, fees to obtain a tax registration number, annual bookkeeping, financial statements, tax returns and legal and accounting fees, and administration costs.
8. Simplicity. Most of our donors direct us by fax, e-mail or phone and the instructions are followed forthwith, in the name of the donor’s fund.
9. The JCF is set up to allow a family to pass on the granting function to the next generation... and then the next generation.
10. Our donor-advise donors interact with our staff to receive research on intended gifts, help with contracts on major gifts to charities and generally to have someone independent to confidentially discuss a multitude of requests for donations and how to best deal with them.

