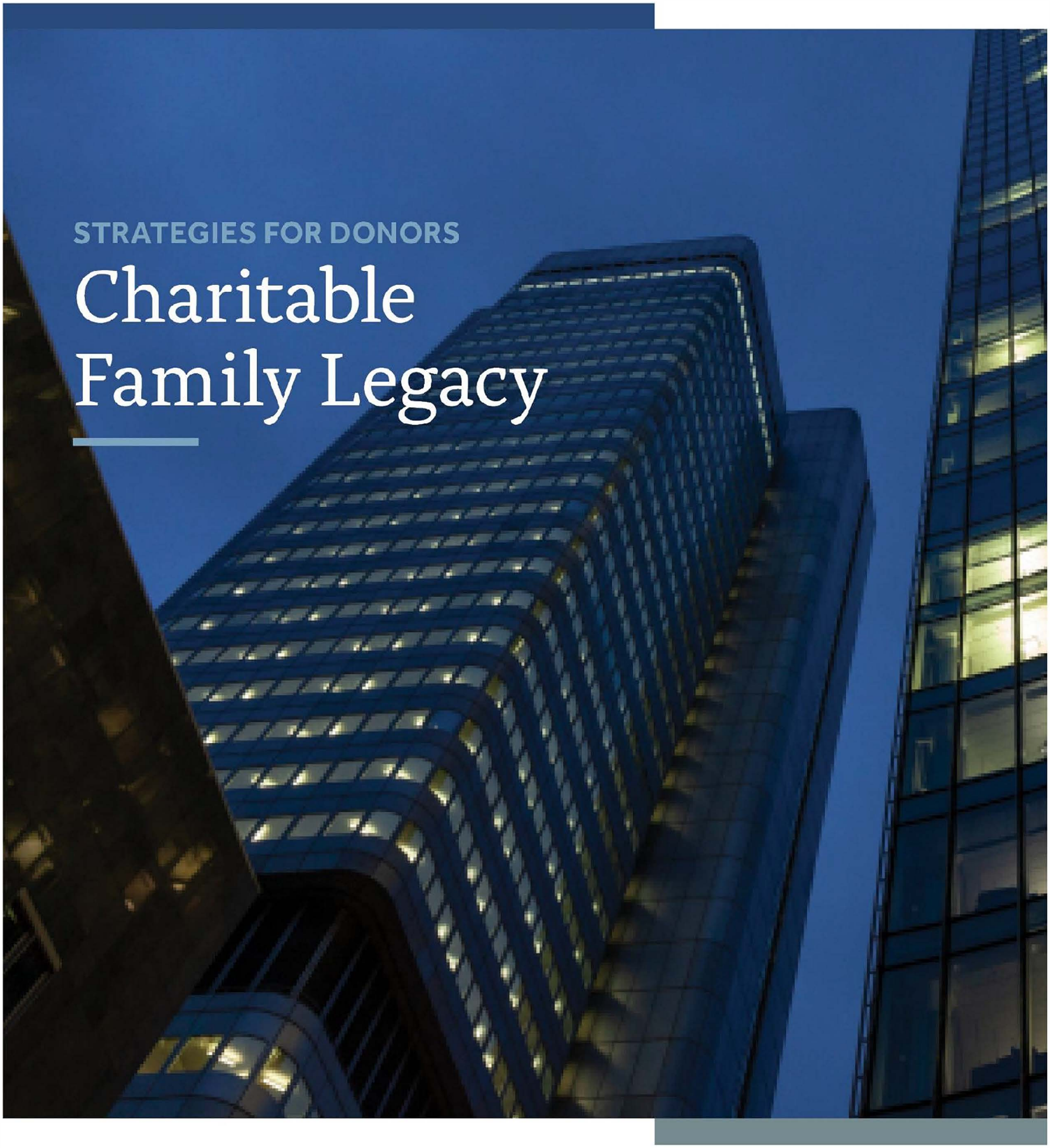
Charitable Corner



STRATEGIES FOR DONORS

Charitable Family Legacy

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Through a charitable entity, a wealthy family can establish a charitable legacy that equals or exceeds its business or other non-charitable legacy. Today, the Carnegie and Rockefeller families are remembered more for their charitable legacies than for their accomplishments in the steel and oil industries.

Two of the more popular charitable entities to accomplish such a legacy goal are the private foundation and the donor advised fund. As entities, private foundations have proven to be very successful generators of positive change, including creating the 911 emergency system, and their transformative work persists, creating solutions for ongoing issues such as access to medical care, poverty, and environmental challenges. A donor advised fund can contribute to these challenges as well, albeit on a smaller scale as such an entity is typically funded with smaller amounts of money.

Private foundations

A private foundation (also called a family foundation) is a charitable nonprofit organization established and funded by a single source, typically a donor family or corporation. The foundation is most often established during a donor's lifetime, but also can be created upon death. In essence, a private foundation is a tax-exempt checkbook; it is a repository of money and conduit between the donor and the charity. The private foundation itself does not directly engage in charitable activities (as compared with a private operating foundation, which has a stated charitable purpose and carries out its own programs, such as a food bank).

A private foundation is controlled by a board of directors or trustees, who may be selected by the donor. The board determines issues such as the:

- Charities to be benefitted;
- Size of grants; and
- Investment policy.

This enables the donor to involve family members early in the decision-making process to foster philanthropy and social responsibility in future generations. Of all the charitable techniques available, private foundations provide the highest level of control and flexibility to the donor in terms of how gifts will be applied to charitable causes.

For lifetime cash contributions, the donor's deduction will generally be limited to 30% of adjusted gross income (AGI). For gifts of appreciated property, the deduction is generally limited to cost basis up to 20% of AGI. (Exception: deduction is not limited to basis for publicly traded securities where donated stock is no more than 10% of corporation's shares.) Unlike public charities, which are generally exempt from income tax, private foundations are subject to special excise taxes of up to 2% on investment income generated in a given year.

Because private foundations are considered more susceptible to possible operation for the private benefit of donors and managers, the Internal Revenue Code contains special rules for private foundations that do not apply to public charities. Violations will result in extremely severe penalties and taxes for the foundation, and in some cases, its managers and substantial contributors.

Donor Advised Funds

A donor-advised fund (DAF) is a separate account of a sponsoring charitable organization established by a donor who retains the right to recommend grants to be made to qualifying charities. The sponsoring organization generally allows the donor to serve as an advisor to the fund or to name another person to serve as an advisor. DAFs are most commonly offered by community foundations that make grants to various local charities. In recent years, many established charities have begun offering DAFs in addition to their primary activities.

A DAF is a good alternative to a private foundation due to lower costs associated with formation and management and fewer regulatory hassles. In addition, gifts to a DAF are subject to the higher deduction limits that apply to public charities – 60% for gifts of cash and 30% for gifts of appreciated property.

A DAF should be considered where the donor is interested in being involved in distribution decisions but is not making the larger scale gifts ($5 million+) usually necessary to justify the operating expenses of a private foundation. In addition, because the DAF can be established relatively quickly, it can be a very useful year-end tax reduction tool. The donor can make an immediate donation and decide which charities to benefit later.

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