

## Cross-Border Philanthropy ©

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You may have a client who wants to send money to a village charity in the old country. Another client's heartstrings may be plucked by tales of starving orphans in a poverty-stricken nation. Many donors wish to share their wealth with less fortunate nations and peoples. But there are two potential stumbling blocks to cross-border philanthropy. First, new worries about donations winding up in the hands of terrorist organizations deter many would-be donors. And second, the Internal Revenue Code is strict about when income-tax deductions may be claimed.

But understanding the tax rules and helping donors give through a recognized public charity in the United States that supports international projects can overcome misgivings. Many organizations such as The International Red Cross, CARE, GlobalGiving and community foundations can help you support client giving to worthy projects abroad.

Philanthropist Bob Miller had a number of international projects he wanted to support. Very active in his parish church, he learned from an early age to tithe, and he has passed the tradition on to his children and grandchildren.

Through his donor advised fund, the AMDG Foundation (Ad Majorem Dei Gloriam, or for the greater glory of God), he provided the funds so his parish church could build a community building for its sister parish in San Andreas Ixtapa, Guatemala that had suffered greatly during a recent earthquake. The Greater Kansas City Community Foundation helped Miller make this happen through his donor advised fund providing funds to the local church that worked directly with the Guatemalan church on the building project.

### **Tax rules**

There are some tax restrictions on making gifts overseas. The first rule is definitive: The U.S. Tax Code does not allow income tax deductions for direct contributions to foreign charities. If clients want the tax deduction, they must donate to a U.S. public charity that is earmarking funds for special projects overseas.

There are two important points. First, the funds are to be used in a foreign country by a U.S. organization as opposed to being used by a foreign organization, says Jane Peebles, an attorney with Freeman, Freeman & Smiley, LLP in Los Angeles. Miller could not have claimed a deduction for contributions made directly to the church in Guatemala; however, he has a legitimate deduction for contributions made to his donor advised fund at the Greater Kansas City Community Foundation.

There is one exception to the rule concerning direct gifts abroad. Donations may be made directly to organizations in Canada, Israel and Mexico with which the U.S. has tax treaties but, even then, deductions are available only to the extent that the donor has income (dividends might be an example)

from that country. In addition, in a rule that applies only to Canada, deductible contributions may be made directly to a Canadian college if any member of the donor's family attended that college even if there is no source income from Canada.

The second critical point, according to Evelyn Capassakis, a partner with Pricewaterhouse Coopers in New York, is that the money must fund specific projects. Clients can donate money to a community foundation or to the American friends of a foreign organization, but the U.S. charity can't be a conduit to simply pour money into a foreign charity. Instead, it is required to fund specific projects. This rule applies to the actions taken by charities; all individual donors typically need to know is that the U.S. charity is recognized by the IRS as a tax-exempt entity.

Many organizations that specialize in international giving ensure donors that every cause they support satisfies the IRS guidelines for international grantmaking as well as the new voluntary guidelines for anti-terrorism set forth in the Patriot Act. If you wish to support women's education in Afghanistan through GlobalGiving or help Haitians affected by civil war through the International Red Cross, you can be sure that donations through these organizations are supporting your preferred projects and meeting international grantmaking standards.

Community foundations that help donors give to international causes can also help vet the individual projects to make sure that they meet IRS guidelines. "What's really important to community foundations is having a good relationship with the organizations that are using these international grants," says Helmer Ekstrom, founding partner of Ekstrom & Associates, a consulting group that works with community foundations and other partners. That can mean having a close relationship with a sister organization in another country, or requesting more information about nonprofits recommended by donors so that the community foundation can do proper due diligence.

### **Trusts and Global Giving**

Many donors establish charitable remainder trusts so that they can receive both current income and an immediate income-tax deduction for the projected value of the gift to charity when the balance of the trust is turned over to the charitable beneficiary.

But donors who give globally must tread carefully. "Even if a treaty provision would allow a U.S. donor to claim an income tax deduction for a direct gift to a charity organized under the laws of the treaty partner," attorney Peebles points out, "such a charity should not be named as the charitable beneficiary of a charitable remainder trust." CRTs must be carefully worded, with provisions ensuring that beneficiaries are U.S. charities.

One of the easiest ways to help clients donate money overseas and to eliminate any fears about misdirected funds that may aid terrorists is to do so through organizations that regularly handle such gifts. International organizations such as the Red Cross, GlobalGiving, or CARE are great resources for giving overseas. Community foundations also handle grants made to international organizations, and they can also help you help clients identify projects that can really help make a difference in foreign

nations.

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