Philanthropy Impact

Exploring the role of philanthropy as part of wealth management

Magazine

Issue 18: Winter 2018

Tax within the context of philanthropic giving

IN THIS ISSUE

THE CAMPAIGN FOR
GROWING MODERN PHILANTHROPY

Philanthropy Impact

Vision: A world where individuals and families engage in philanthropy and social investment, supported by advisers.

Mission: Growing modern philanthropy by developing the skills and knowledge of professional advisers about philanthropy and social investment. We deliver our mission by delivering activities to support our members and key stakeholders.

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- Market research

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- Advocacy: lobby for policies and regulations that encourage philanthropic giving and social investment
- Policy position submissions and papers
- Engagement with Government and key policy stakeholders

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The purpose of the magazine is to share information about philanthropy in a domestic and international context. We welcome articles, letters and other forms of contribution in Philanthropy Impact Magazine, and we reserve the right to amend them.

Please contact the Editor at editor@philanthropy-impact.org

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Meeting the demand for professional philanthropic support

Geoff Cook *www.jerseyfinance.je*

Geoff Cook

As attitudes towards philanthropy and impact investing have continued to evolve and as philanthropic endeavour has become more sophisticated, a gap has emerged between the desire to engage in philanthropic activity and the knowledge and tools required to bring that ambition to fruition.

The clear indications are that philanthropy is becoming increasingly embedded as a core part of a comprehensive wealth management strategy, and as a result advisers and specialist wealth management jurisdictions are having to adapt quickly and appropriately to ensure they adequately meet the philanthropic objectives of high net worth individuals (HNWIs) and their families.

For example, research carried out by Philanthropy Impact in 2016 points clearly to the fact that clients are wanting more high-quality philanthropy advice and guidance than ever before, and are actually investing not just for financial return but based more on their personal values.

Evidencing the rise in philanthropic endeavour, the 2016 Coutts Million Dollar Donors Report, which logs donations of US$1 million or more, logged 2,197 donations worth US$56bn in total across the UK, USA and Middle East (Gulf Cooperation Council) in 2015. That represents a dramatic and rapid increase on the US$17bn donated the previous year.

Need for advice and support

At the same time, those wishing to engage in philanthropy are actively seeking expert support – but support that, it appears, can be difficult to find.

For instance, a report published last year by State Street Global Advisers – *The heart of wealth management: Helping clients align philanthropic and financial goals* – showed that clients who are able to receive guidance on philanthropic planning from their adviser are 40% more likely to be very satisfied with them. It also found that 62% of investors agree it is important to educate the new generation about family values and legacy.

For example, research carried out by Philanthropy Impact in 2016 points clearly to the fact that clients are wanting more high-quality philanthropy advice and guidance than ever before, and are actually investing not just for financial return but based more on their personal values.

However, the Philanthropy Impact research suggested that less than 20% of UK advisery firms currently offer specialist philanthropic advice, and the depth and breadth of this advice varies significantly, with respondents giving an average score for the advice they receive of just 5.9 out of 10.

Nevertheless, that research found that offering expertise on philanthropic giving and impact investing is not only good for the client, but for the adviser too. Providing this service helps attract new clients and align advisery firms with their clients' core values and interests.

It is also more sustainable because it encourages clients to talk about their long-term goals and addresses the shifting values of the next generation and millennials, and of course the growing role of women in wealth.

Areas advice is needed

There is undoubtedly a growing need for high-quality professional advice, guidance and education when it comes to philanthropy.

According to a study by the Charities Aid Foundation and Scorpio Partnership (2015), philanthropists are looking for advice in a broad range of areas. Unsurprisingly, tax is a key issue (17% of respondents), but understanding need and selecting social causes

(12%), selecting charitable organisations and projects (11%) and monitoring the impact of giving (11%) are all important areas where guidance is needed as well.

Moreover, with philanthropy being a truly international affair now, support needs to be global in scope too.

A white paper, produced by Jersey Finance in conjunction with Hubbis in 2016, explored key trends in one of the world's fastest growing wealth markets – mainland China. The paper, *The internationalisation of Chinese wealth*, concluded that 'Chinese clients increasingly say they want to leave the majority of their estate to charity, or for philanthropic purposes' and that 'philanthropy is a concept which is gaining some traction among families, although domestic laws are not well developed yet in this respect', suggesting some real scope for specialist international support.

Overall, the picture is one of HNWIs wanting to pursue philanthropic endeavours and needing broad professional advisery services to realise their ambitions and have a genuinely positive impact in communities around the world.

Jersey's approach to philanthropy

Against this evolving backdrop, Jersey has set out on a journey in recent years to create a robust professional environment for philanthropy and provide a framework for advisers to deliver high-quality philanthropic advice.

Jersey is already home to a number of internationally-focused philanthropic projects, for instance:

- Trust and corporate services provider Minerva works with the Meghraj Charitable Foundation to target philanthropic activity on sustainable business or welfare-orientated projects making a social impact in East Africa and South Asia
- Jersey was selected by RBC Wealth Management's client as the place of incorporation for a foundation providing scholarships and training for young people in Asia
- BKS Family Office has created a philanthropic charitable trust to manage the inheritance of a European client who wished to have the monies used for medical aid, education, water distribution and helping the elderly, predominantly in Latin America, Africa and India.

However, Jersey's Charities Law continues to be introduced in phases to enhance its framework and help meet the requirements of the modern-day philanthropist.

The Law has already seen the appointment of a new, independent Charities Commissioner, who has responsibility for establishing a charities register – expected to come on stream this year – and for ensuring that charities registered on it meet their legal requirements.

The Law has also introduced standards that those who run charities on the Island will have to abide by and a new test for what is charitable (the 'Charity Test'), whilst in due course it will also enable a Charity Tribunal to be established. Ultimately, it is hoped that the Law will enable the Island to flourish as a centre for the administration of charitable structures.

Conclusion

It's clear that there is a need for a more tailored approach to philanthropy as part of holistic wealth management strategies, and doing so can not only empower investors and families but also helps advisers deepen their relationships with clients and enable them to support clients better in achieving their long-term goals.

Underpinned by a strong pool of philanthropic expertise, Jersey's new law and regulatory regime is a clear demonstration of the commitment that Jersey is making to the evolving philanthropic landscape and an acknowledgement that more needs to be done globally to bridge the gap between philanthropic desire and implementation.

As Chief Executive Officer of Jersey Finance, ***Geoff Cook*** *works with governments, regulators, financial professionals and investors, to promote the Island's finance industry, whilst highlighting legal and regulatory developments, as well as innovations in products and services that make international trade and investment easier to do.*

In addition to leading Jersey Finance-hosted events, Geoff speaks at conferences around the world. He contributes to leading publications as well as writing a regular Jersey Finance CEO blog. In promoting Jersey's finance industry, Geoff features in media such as The Financial Times, The Wall Street Journal, The Economist, BBC Radio, the BBC World Service and Bloomberg TV.

Geoff joined Jersey Finance in 2007 with a strong career background in the London banking world, having held senior-level roles in wealth management and financial planning. Geoff is a Chartered Director, a Fellow of the ifs School of Finance, a Fellow of the Chartered Institute for Securities & Investment and a Member of the Society of Trust and Estate Practitioners.

Selfish philanthropy also known as tax-effective giving

Jacqui Lazare *www.roydswithyking.com*

Jacqui Lazare

There are a number of measures that encourage tax-effective giving to charities but they are often little used and sometimes completely forgotten. Many of them can be used though when advising would-be donors on their giving strategy and, when appropriate, recognising where donors' overall planning may dovetail with their philanthropic aims.

All tax reliefs are designed to encourage giving, thereby generating additional income for the charity sector. However, for many, the most common approach to giving focuses on maximising income to charities, for example, Gift Aid. This approach can often overlook what may be in the donor's best interests by instead maximising reliefs that benefit the charity. Indeed, it is not uncommon for a client to be advised to gift an asset which has inherent gains for to a charity while the additional and concurrent income tax relief gets forgotten.

Tax reliefs which benefit the donor are important since they can drive donors to make a gift which they may not otherwise consider.

There are three main areas of tax-effective giving:

- Gifts of listed shares and securities
- Gifts to charities on death and use of the reduced rate of inheritance tax
- Gifts of land.

Gifts of listed shares and securities

This relief is provided for in the Finance Act 2000. It provides that:

- A transfer of shares to charity is exempt from capital gains tax (CGT).
- The full value of the transaction is deductible from the donor's income.
- It is available to individual or corporate donors.
- If any benefit is retained by the donor, the value of the transaction is reduced for tax purposes.

Case study

We acted for a client on a transfer of listed shares (worth over £1m) to charity. Our client was one half of the owner of a well-known interior design company who was starting to wind down their involvement in the company. They intended to sell their shares back to the company and use some of the proceeds to set up a charitable trust which would have resulted in a CGT charge on the sale.

We advised them to:

- Set up a charity
- Transfer the shares to the charity in specie
- Let the charity sell the shares back to the company.

This is a great example of utilising reliefs to everyone's benefit. There was no CGT on the transfer to the charity and full income tax relief on the value of the transfer was available to the client. Indeed, this was split across two tax years thereby securing two years of tax-free income.

The charity was funded at a much lower cost than expected and the charity then sold the original shares back to the company CGT-free.

Other circumstances where it is important to remember the possibility of utilising this relief include the administration of estates with charitable residuary beneficiaries. Here it is always prudent to consider the transfer of shares by way of appropriation to avoid CGT.

Naturally there are restrictions in place to prevent the rules being abused. However, these won't affect anyone relying on the rules properly. An example of a restriction would be to catch those who own shares for less than four years and fail to declare true acquisition cost.

Gifts to charities on death and use of the reduced rate of inheritance tax

It is well known that gifts to charities are exempt from inheritance tax (IHT) on death. In addition, the reduced rate of inheritance tax was introduced in 2012. Here, donors can achieve a discounted rate of IHT against their estate where they make a gift of 10% of their estate to charity in their will.

In utilising this relief it is important to be aware of certain 'tipping points'. For example, where a testator is already inclined to give something to charity (say 4% of their estate), then they can increase that gift to 10% without reducing the amount received by their non-exempt beneficiaries and, in some cases, increasing the amount received by them.

The calculation is hideous but there are a number of well-known examples available illustrating its effect at different levels.

In practice this relief has not been taken up as much as was hoped or expected. For my part, I have experienced a mixed response from clients: not all are driven by maximising the amount they can give to charity and it is normally utilised by clients without children. Typically, for any clients to be inclined to use it they must already plan to give at least 4% of their estate away, and highlighting the ability to increase the legacy without reducing the amount going to their children is crucial. Thus it is important to remember there may be multiple drivers for your clients.

For my part, I have experienced a mixed response from clients: not all are driven by maximising the amount they can give to charity and it is normally utilised by clients without children.

Gifts of land

The relief associated with gifts of land to charities (introduced in 2002) is very similar to gifting shares and securities. Here:

- The whole of the title must be transferred. The relief is not available where a portion is transferred only.
- Full CGT relief is available on the value of the transfer and donors can deduct the full value from their income.
- The income tax relief cannot be split across more than one tax year.
- Any costs/expenses incurred are deductible, less any benefits/consideration received.
- It is essential to provide written evidence of the gift from the charity in order to secure the relief.

Owning land brings responsibility and work in dealing with a subsequent disposal. Consequently, charities may be unable or reluctant to accept such a gift. In these circumstances a donor can declare that the property is held on trust for the charity before sale. Here, the donor deals with the sale (with the charity meeting the costs) and then the proceeds can be transferred subsequently.

Please note the charity will not be able to Gift Aid the proceeds. Some argue it is simpler to sell the property and gift the proceeds. However, use of this relief may mean a charity benefits from a significant gift the donor may otherwise be disinclined to give, and, if so, then that is a positive thing.

Case study

I recently set up a charity for a client who transferred a property to a new charity. The transfer resulted in a large CGT liability (£200,000) which was avoided and enabled the client to set up a charity with a significant asset. The additional income tax relief was also welcome.

Conclusion

- Be clear about what is in the donor's best interests – do the maths – what's most tax efficient for them and in line with their overall aims.
- The timings of any transaction are always relevant, for example, which tax year it is.
- Remember that all reliefs are designed to encourage giving and boost income for the third sector and so utilising these reliefs is a good thing all round.

***Jacqui Lazare** is a Solicitor (Estate Planning & Charities) and in over 10 years of her career as a private client solicitor, more than half of her time has been spent developing her specialism in charities and assisting philanthropists. Jacqui's experience is complemented by a post-graduate certificate in Development, affording her insight into intrinsic problems facing the third world, including some of the difficulties relating to funding or engagement with the intended beneficiaries.*

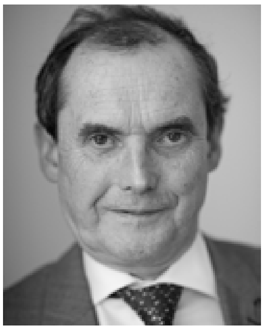
Jacqui's time at the Charities Aid Foundation (CAF), was spent looking after their charitable trusts, providing her further insight into how philanthropists endeavour to engage with the causes most important to them Jacqui sits on the Bath Committee of Quartet, a large community foundation in the South West and has served as a trustee of a Bath-based children's charity, First Steps.

Jacqui's business activities have included sitting on a working party for the Charity Law Association, publishing an article for Philanthropy Impact *and two practice notes for Lexis Nexis' online resource. She has also published various blogs for her firm's website and filmed two updates for Lexis Nexis on good governance for trustees and the topic of tax-effective giving to charity.*

Encouraging philanthropy through the tax system

where are we now?

Richard Bray *www.cancerresearchuk.org*



Richard Bray

There is no doubt that we are living in uncertain times. In early May of last year, when I was a panel member at the Philanthropy Impact Tax Update in the context of Philanthropic Giving, who would have predicted the outcome of the General Election? At that time everything was 'strong and stable' and the prospect of a minority government seemed fanciful.

The election result has only served to compound the Brexit uncertainty that we were already so conscious of then. And in that context what prospect is there to stimulate philanthropy through new forms of tax-efficient giving?

Updating tax-efficient giving measures

In an age of consumer choice I am firmly of the belief that we need an improved tax-efficient giving 'toolkit'. By this I mean a set of measures that allow people to give using tax-efficient mechanisms that suit them best. The measures would need to be constantly reviewed to ensure that they are 'fit for purpose' and reflect the realities of modern life. This should take account of the differing and changing needs of those who want to give but need the right structures to make this work optimally for them. No one measure will deliver the knockout blow. This is where the giving toolkit comes into play.

That is not to say that we are starting off from a bad place. The existing measures are useful and varied including Gift Aid, payroll giving, gifts of shares and gifts of property. More recent tax reliefs include the reduced inheritance tax rate that is applied where more than 10% of the estate is left to charity, and there are measures for social investment tax relief. This is not to forget the cultural gifts exemption.

So the resources in the existing toolkit are many and they all play their part. Like any toolkit some of the tools will be used all the time whilst others will be only brought into use occasionally in particular circumstances. But they may need refreshing from time to time if they are to be as effective as they might be and it is some time since there have been major changes to it so the toolkit is beginning to look a little bit worn. So are there new measures that might reinvigorate our toolkit?

Anyone hearing the last Budget would not be full of optimism about that. We clearly have a Government that is not minded to address anything other than what's urgent as it has too many other things to focus on. But, it will not necessarily stay like this forever. And we need to be ready for that when it happens.

That is where grounds for optimism might lie. When the dust settles, the place and need for philanthropy is likely to be clearer than ever – especially given the strains on public services.

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So what principles should guide us in lobbying for change? Most importantly, the giving must always be the priority. Tax efficiency must be secondary to that. The 'tax tail' must not wag the 'giving dog'.

In seeking change we also need to:

- Stick to the principle that what is given away to fund charity should not be taxed. What is given is no longer a person's income to spend on themselves. In other words, tax relief should be seen as an underlying right rather than as a simple stimulus for giving.
- Notwithstanding this, be practical and canny in understanding what appeals to Government in terms of impact and costing. To argue that giving to charity is simply a good thing is not sufficient reason in itself.
- Remember the UK's heritage of philanthropy and not let it become just another word for a business proposition.

The Government, through its Charity Tax Forum, is intending to review the effectiveness of Gift Aid. It is important that this review makes sure that Gift Aid is fit for the future. With changing payment methods and the increasing impact of the accelerating digital age, this is essential. This gives an opportunity to refresh the relief.

Other ways of giving

But what of bigger and novel ideas for giving? In the UK our tax system is only geared to giving tax relief on absolute gifts. This does not reflect that many want to give significant sums but do not want to lose the financial security that would mean. There are ways to get around this problem though. In the US, for example, capital remainder trusts have been part of the giving landscape for many years and have been very successful. They allow those wanting to give to do so while still receiving a modest income until death or for a given period of time. The income the donor receives is subject to tax and the donor receives tax relief on the discounted capital sum. The trusts can also be constructed in a way that is suitable for the mass affluent.

In the UK this concept has been badged as 'Living Legacies'. It is estimated that this giving mechanism would unlock an additional £400m each year for charities. Attempts to lobby for changes to UK tax legislation to allow this to happen have been going on for a number of years. Some may think that this means that it will never happen. But a good idea remains a good idea and, whilst nothing is guaranteed, I believe its time will come. Hopefully, it is a matter of when and not if. We simply need persistence.

Conclusion

A final plea must be for more financial advisers to be aware that there is a tax-efficient toolkit in the first place and make that available to their clients.

The beginning of this article referred to the changing political scene we witnessed last year. And so it only seems appropriate to end it in a similar fashion. I don't often quote Donald Trump but we are living in unusual times! "As long as you are going to be thinking anyway, think big."

Richard Bray *is a Chartered Accountant who joined Cancer Research UK shortly after its creation in 2002. Previously he worked for KPMG for 20 years in varied audit and tax roles. His current work involves responsibility for a wide range of technical and regulatory issues including tax work for the charity. He has been closely involved with the Charity Tax Group since 2002 and is currently its Vice Chairman. He is also a member of the ICAEW Charities Committee, the HMRC Charity Tax Forum and the Charity SORP Committee. Richard has a keen interest in understanding how tax reliefs can best encourage philanthropic giving in a way that focuses on the donor rather than the technical. He has also worked closely with HMRC over many Gift Aid developments in recent years and was partly responsible for the Gift Aid Declaration wording that was introduced from April of 2016.*

Top challenges facing charities

David Britton *www.ecclesiastical.com*

David Britton

From an ever-changing regulation and taxation picture to the latest cyber threats, there seems to be a fresh challenge facing the third sector every week.

In a recent survey, we asked charities[1] what they think the biggest risks facing their sector will be in 2018, and while continued pressure on funding was top of the list, the impact of potential Government changes was in second place (see box on page 10).

This is perhaps unsurprising given that 2017 saw the introduction of the fundraising regulator, further funding cuts and tax changes such as the rate of Insurance Premium Tax (IPT) increasing to 12%.

It's important that philanthropists are kept informed about the challenges facing not-for-profit organisations, including upcoming regulation like General Data Protection Regulation (GDPR) that will impact on how charities can use their data and communicate with them from May 2018. This would also see charities exposed to major fines in the event of data breaches – the fourth biggest risk that charities identified in our survey.

Addressing funding issues

But, while all of these emerging threats are undoubtedly hurdles, it's important not to lose sight of the fact that the third sector's biggest headache continues to be funding. After all, it was pressure on funding that finished out in front with 84% of the vote in our survey.

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The use of direct mail and face-to-face fundraising has also been affected after a series of stories hit the headlines in 2015, revealing some of the more dubious practices used in the industry. The resulting media and regulatory focus has meant that, unsurprisingly, charities are now exploring different avenues.

The State of the Sector research carried out by New Philanthropy Capital (NPC)[2] and sponsored by Ecclesiastical found that 74% of charities expect to explore a broader range of activities in the next three years.

There's no doubt that many charities are becoming ever more innovative as they look to survive and thrive in a difficult financial climate. While maintaining loyal and fruitful relationships with long-standing supporters remains key, NPC's research showed that more than half of charities said they are taking more risks than three years ago.

...more than half of charities said they are taking more risks than three years ago.

Managing risk

If charities are to future-proof themselves, this diversification of funding is vital and having a positive attitude to risk is imperative.

Embracing digital, for example, gives charities opportunities to make gains operationally, decrease costs, aid collaboration, increase awareness and engage with a wider audience in new ways. But a lack of confidence in online security and a lack of employees with experience of using digital methods can create barriers to tapping into this potential. It also increases risk, particularly with cyber-attacks rising in frequency and ingenuity.

While evidence of impact is understandably a philanthropist's top priority, now, more than ever, donors need to be reassured that the charities they support are managing risk effectively. After all, reputational damage in the wake of a crisis can reach far and wide – from volunteers and staff through to trustees and even supporters.

Conclusion

As a specialist insurer of charities, we've seen first-hand that good risk management coupled with the right level of professional expertise can act as an enabler to positive transformation and ensure that charities can continue to provide the most impactful support to the people and communities they help.

Top 10 risks (charities who said they were concerned or very concerned)

1. Funding 84%
2. Impact of Government changes 72%
3. Reputational risk 66%
4. GDPR/data protection 65%
5. Cyber/internet crime 63%
6. Grant providers 62%
7. Employer liability 53%
8. Exposure to social media 51%
9. Increased focus on governance 45%
10. Impact of Brexit 44%

__David Britton__ is the Charity Director at specialist insurer, Ecclesiastical. He is responsible for the continuous improvement of products and services and acts in an advisery role to the company's broker network and partners.

He also actively contributes to the work of key third sector bodies and charities, providing insight on the opportunities and challenges facing the sector, particularly in relation to risk management. Ecclesiastical recently sponsored New Philanthropy Capital's State of the Sector research.

While Ecclesiastical is a commercial business, it is owned by a charity and a significant proportion of the company's profits go to its owner, Allchurches Trust, which donates these independently to good causes. Ecclesiastical also has its own extensive programme of charitable giving.

[1] *FWD research of 101 charities commissioned by Ecclesiastical in October 2017*

[2] *Findings from NPC's State of the Sector research http://www.thinknpc.org/our-work/projects/state-of-the-sector/*

Social investment: maintaining momentum and managing risk

Peter Wilson and Ed Whitten *www.impactinvestingadvisory.com*

Peter Wilson

Ed Whitten

Social investment is nearing a critical juncture where its survivability – as a way of identifying new sources of financial return and an innovative method of contributing to society – depends on its ability to remain honest, effective and accessible. To do so, also requires that social investment and philanthropy continue to comply with the latest tax requirements and regulation – cue the informed and equipped wealth adviser!

As a sector enjoying a great deal of attention, social investment is under increased scrutiny from a variety of stakeholders. This ranges from charities and social enterprises using private sector approaches to scale up their activities, to donors and investors seeking genuine impact and sustainable financial return as well as to tax authorities keen to ensure that tax advantages are given only when they are deserved.

Borrowing best practice from other heavily regulated and scrutinised sectors, such as conventional emerging markets investment, can provide wealth advisers with helpful tools to navigate regulatory pressures, unlock opportunities and support their clients' ambitions for maximising the impact of their wealth.

Remaining honest – learning from conventional investing

Impact investing must be viewed as an honest practice with good intentions for tackling the root causes of social problems, not one that takes ill-informed risks or one that is hijacked by the impact equivalent of 'green-washing'.

Honesty is not always a trait associated with conventional investing. The burgeoning market for detailed non-financial due diligence reporting on potential investments is, however, representative of a more ethical attitude to traditional investing, as well as the regulatory pressure applied on the financial sector in recent years. The long-awaited arrival of MiFID II (Markets in Financial Instruments Directive) on 3 January is testament to this and has particularly significant implications for investing in emerging markets and developing economies where transparency and the rule of law may be low.

Borrowing best practice from other heavily regulated and scrutinised sectors, such as conventional emerging markets investment, can provide wealth advisers with helpful tools to navigate regulatory pressures, unlock opportunities and support their clients' ambitions for maximising the impact of their wealth.

Detailed due diligence helps to ensure that an investment is not at undisclosed risk, and that funds will be used for the stated purpose in an economic and political context that is conducive to making the most of the investment. Within private equity, one very frequently hears that the most important information for an investor is a) about the key people involved – what is their track record? are they reliable? – and b) the context in which the investment is taking place – is the business making money based on a sustainable competitive advantage or just a potentially unsustainable set of personal and political connections? What are the underlying risks?

Within social investment and philanthropy, detailed non-financial due diligence can answer the same important questions but can also be used to analyse the 'impact case': are the intended outcomes of a project achievable and sustainable? Do the main players have a track record of success? Are there any contextual reasons which may prevent the investment from achieving its stated aims (e.g. incoming regulation or political shifts)?

To debunk a few myths about due diligence reporting: it may be done in-house or externally; it doesn't have to be expensive; it doesn't have to consist of long, dry reports; and, it isn't only about identifying 'red flags' and preventing investment. Due diligence can be used positively to help identify the right partners, projects and strategies to navigate the 'red flags' and reduce risk, even in challenging environments.

Robust due diligence practices are not only prudent for investors, but tax authorities are increasingly requiring evidence of proper management of funds that are claimed as charitable donations or impact investments. As tax incentives for philanthropy and for social investment grow (e.g. the Social Investment Tax Relief scheme in the UK), authorities are likely to harden on their assertion that 'relevant and proportionate' due diligence be conducted into the recipients of charitable donations or social investment, and the end use of funds.[1] This will only be exacerbated by recent scandals over the tax affairs of (U)HNWIs, criticism of donor-advised funds, and allegations that charitable giving has funded extremism in the UK and abroad.

Remaining effective – learning from international development

Social investment must prove that it is an effective philanthropic activity. It can do so by promoting and communicating accurate and clear impact measurement which helps align the ambitions of investors and investees.

It is now widely accepted that the measurement and analysis of impact is extremely important to charities and social enterprises wishing to encourage further investment/funding, promote their mission and maximise their impact. However, the recently published Growing a Culture of Impact Investing in the UK report highlights that 52% of people surveyed in the UK avoid impact investing because of the difficulty associated with measuring social impact.[2] Measuring and managing impact is often viewed as overly academic, jargon-loaded and expensive.

This does not have to be the case and the world of international development provides a great deal of experience in lean impact monitoring and evaluation ('M&E') practices. One of the principal impact management tools is the 'theory of change' – which aims to set out the visible effects of a social problem, then dig into the underlying causes. Understanding the underlying causes allows the design of genuinely effective interventions, and observing the resulting changes in the visible effects allows proper metrics to be designed. This provides verification that the underlying causes were correctly identified and are being tackled properly.

It is now widely accepted that the measurement and analysis of impact is extremely important to charities and social enterprises wishing to encourage further investment/funding, promote their mission and maximise their impact.

A theory of change can sometimes require detailed research and analysis. But, even an hour spent brainstorming root causes can be invaluable in ensuring that all stakeholders understand the problem they are tackling and that they are not simply alleviating symptoms. Once complete, a theory of change tells the story of how the desired change is expected to occur, and should help satisfy all parties, including tax authorities, of the social intentions of an investment or grant.

Often used by purpose-driven organisations, but rarely explained to investors and philanthropists, a well-informed and logical theory of change can be a powerful process to engage a potential investor and ensure that their ambitions for impact are best met. For example, a wealth adviser recently reported that a client stated that they wanted to invest to help achieve the UN Sustainable Development Goals in Africa – a fairly tall order. After several emails and scattered conversations, it became clear that the potential investor had an interest in improving women's education in West Africa, where they had family. At this stage, using a theory of change framework to analyse where the need is and how a philanthropist or investor wants his or her money to be used will help identify suitable opportunities aligned to the client's principles.

Remaining accessible – learning from each other

Social investment must remain an accessible funding solution, available to a wide range of concerned citizens, whilst avoiding becoming a niche discipline, practised by an informed few.

Accessibility and awareness are major limitations within the field of social investment. It is common to hear charities and project leaders citing a lack of capital as a constraint to growth; but it is also common to hear that deal flow remains low and people struggle to find impact projects at an acceptable scale for investment. It was concerning to read in Growing a Culture of Impact Investing in the UK that a Centapse study revealed that people with financial advisers were less aware of social impact investment than those without.[3] Wealth advisers and other intermediaries can play a crucial role in helping both sides talk to each other, creating awareness of the broad spectrum of impact investments available and establishing partnerships to help charities and investors achieve their social and/or environmental goals.

Conclusion

Social investment can ensure its upward momentum and mitigate risks to its success by working towards what New Philanthropy Capital calls an 'evidence-led social sector'. A more rigorous approach to understanding and communicating impact, risk and sustainability should be embedded into the impact eco-system. Fortunately there is no need to reinvent the wheel, and proven approaches from conventional due diligence and international development can be adapted to suit the needs of investors and philanthropists for greater clarity on the true impact of their activities. In turn, these approaches have the dual benefit of helping social investors and philanthropists meet the requirements of the ever-shifting sands of tax and regulation.

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[1] *'Chapter 2: Due diligence, monitoring and verifying the end use of charitable funds', Compliance Toolkit, Charity Commission for England Wales, 2016*

[2] *Growing a Culture of Impact Investing in the UK, 2017*

[3] *Growing a Culture of Impact Investing in the UK, 2017*

[4] *New Philanthropy Capital, Towards an Evidence-Led Social Sector, 2017*

European Union compatibility in cross-border philanthropy

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Jon Kinnell

In this age of connectivity, cross-border philanthropy and social investment is becoming ever more mainstream. Lines are becoming increasingly blurred as public benefit organisations invest more across national boundaries. Individual and corporate donors, along with grant-making organisations, are increasing their philanthropic activity outside their home countries. All this is happening at a time of heightened scrutiny of anti-money laundering practices and a spotlight on charitable activity.

In the European Union, member countries have enjoyed the non-discrimination principle which applies to all areas of activity from economic to civil rights – similar to the freedom of movement of people within the union. But this does not apply to philanthropy. Regulators and authorities both here in the UK and member states still discriminate against comparable, foreign, EU-based, philanthropic public benefit entities. This is in contrast to very clear and specific directives by the European Courts of Justice (ECJ).

When is comparable not considered comparable? According to ECJ rulings (Perscher, Stauffer[1]), the 'non-discrimination principle' provides that public-benefit organisations and their donors acting across borders within the EU are entitled to the same tax incentives as would apply in a wholly domestic scenario, where a foreign, EU-based, public benefit organisation can be shown to be comparable to a domestic one.

The challenge in moving from an ECJ ruling to practice can be found in the member state tax authorities and regulators. The UK enjoys one of the most incentivised environments of all EU member states. Taking into account the UK's Gift Aid scheme and associated benefits, the UK government contributes 25% to all eligible donations. This is in addition to the personal higher rate tax incentives, the ceiling of which is only dependent on the value of tax an individual pays in the same year. In 2016/17 the UK gave in excess of £9bn[2] to charity both in the UK and overseas, which is why HMRC and the charity regulators have such strict guidance on comparability.

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Herein lies the cause of the discrimination from a UK perspective. Only a few countries such as Germany, Belgium and the Netherlands have made any headway in breaking down non-discriminatory barriers, however, the fiscal environment for cross-border philanthropy is far from satisfactory with most

[1] *ECJ 14.9.2006 - C-386/04 (Centro di Musicologia Walter Stauffer/Finanzamt München für Körperschaften).*

[2] *Charities Aid Foundation, Philanthropy Comes Of Age (Oct 2017).*

regulators and authorities still discriminating against comparable, foreign, EU-based philanthropic players. Too often the process to prove comparability and seek the tax incentives can be so complex that it hinders or even deters cross-border philanthropy.

Transnational Giving Europe

In the absence of a European charity regulator and the recalcitrant pace of regulators to adapt the full EU non-discrimination principles, one organisation, Transnational Giving Europe (TGE) has emerged to fill the void where regulators have failed. TGE is made up of the leading philanthropic providers within each member state such as the Swiss Philanthropy Foundation, Foundation de France, Fondazione Lang Europe Onlus in Italy and the Charities Aid Foundation in the UK. TGE is co-ordinated by the King Baudouin Foundation of Belgium providing donors with the tax incentives within their country of residence, then passing the donation on to the beneficiary in the respective member country, eliminating the need for donors to undertake burdensome due diligence and satisfy their respective regulator or authority. TGE itself is currently lobbying on a number of fronts to encourage governments to implement non-discrimination rulings. Its latest publication, *Boosting Cross-Border Philanthropy in Europe 2017*[3], offers ideas and recommendations from a practitioner viewpoint which could potentially ease tax effective cross-border philanthropy in Europe.

Conclusion

Whether the UK remains part of TGE post-Brexit is unknown and possibly dependant on EU/UK negotiations but the result could be a drop in philanthropic support for UK charities by EU donors. The regulatory and tax-effective environment in the UK remains one of the most favourable in the world when it comes to grant making and social investment, both in the UK and internationally. It is not restricted nor does it differentiate international or European giving alone. As there is no talk so far of changes to the current set-up I cannot see any reason why this would not remain in place post-Brexit negotiations.

Regardless of the outcome, the UK maintains a very stable and transparent system, keeping it at the forefront as one of the most effective and incentivized countries in the world when it comes to philanthropy.

In the last ten years, ***Jon Kinnell*** *has built a professional career within the finance sector including charity finance, ethical banking, social enterprise and philanthropy.*

Jon has an in-depth understanding of the importance of effective philanthropic solutions and innovative ways of giving. He enjoys the challenge of clients' inspirations and turning that inspiration into action. As Senior Manager at CAF Philanthropy, Jon is responsible for in excess of £100m of philanthropic capital for clients in the UK, Europe and other countries around the world. This involves facilitating and managing sustainable philanthropy direct with HNWI's and their families as well as some of the world's leading wealth managers, tax advisers, lawyers and family office advisers to help them help their clients achieve long-term, systemic, social, economic and environmental impact.

[3] *Transnational Giving Europe, Boosting Cross Border Philanthropy in Europe, (2017)*

Join Us

> *'I believe Philanthropy Impact has a key contribution to make as a forum to encourage more – and more effective – philanthropy and social investment through the exchange of ideas, spreading knowledge and improving the professional advice available. This is more important than ever.'*
>
> **LORD JANVRIN** Senior Adviser
> HSBC Private Bank (UK) Ltd

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