PRIVATE FOUNDATION CONSIDERATIONS

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WEALTH

How to Form a Family Foundation

Starting a family foundation can be a rewarding way to formalize and streamline your family's charitable giving, create a lasting legacy, and potentially realize tax benefits. However, it's a significant undertaking requiring careful planning and professional guidance.

Here's a breakdown of the key steps involved:

Define your vision and purpose:

- Clarify your philanthropic goals and values: What causes are you passionate about? What impact do you hope to achieve? A clear mission statement will guide your foundation's efforts.
- Determine the foundation's lifespan: Will it operate for a set time or in perpetuity?
- Involve your family: If you desire a multi-generational legacy, include family members in the planning to ensure their values are reflected in the foundation's mission.

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Establish legal structure and governance:

- Choose a legal structure: Most private family foundations are set up as nonprofit organizations, typically as a 501(c)(3) in the United States. Consider consulting with a legal expert for guidance on the appropriate structure for your situation.
- Form a board of directors or trustees: These individuals will oversee the foundation's operations and set grant-making priorities. Consider including family members and external experts for diverse perspectives.
- Draft bylaws and governing documents: These outline the foundation's operational guidelines, including decision-making processes and roles for board members.

Obtain necessary registrations:

- Apply for an Employer Identification Number (EIN): This is your foundation's unique identification number from the IRS for tax purposes.
- Apply for 501(c)(3) tax-exempt status: This involves filing Form 1023 with the IRS to be recognized as a tax-exempt charitable organization.
- Comply with state requirements: File any additional paperwork required by your state for tax-exempt status.

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Fund your foundation:

- Determine initial funding: This can include cash, appreciated securities, real estate, or other assets.
- Consider ongoing funding strategies: You may choose to fund the foundation over time through contributions from family members.
- Consult with financial advisors: They can guide you on investment strategies to ensure the foundation's financial growth aligns with your philanthropic mission.

Implement operations and procedures:

- Establish a grant-making process: Define criteria for evaluating grant applications and selecting recipients that align with your mission.
- Develop robust record-keeping systems: Maintain detailed records of all financial transactions, grants made, and board meetings to ensure transparency and compliance.
- Adhere to annual reporting requirements: Private foundations are required to file annual tax returns and other documents with the IRS and relevant state agencies.

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Ongoing management and evaluation:

- Regularly assess your foundation's impact: Evaluate the effectiveness of your grants and make necessary adjustments to strategies.
- Plan for succession and long-term governance: Establish guidelines for leadership transitions and future decision-making, especially concerning the involvement of future generations.

Important considerations:

- Costs: Establishing and maintaining a family foundation involves legal, accounting, and administrative costs. While there's no official minimum, an endowment of at least $1 million is often recommended for sustainability.
- Compliance: Private foundations are subject to strict IRS regulations, including annual payout requirements (5% of net investment assets) and excise taxes on investment income.
- Alternatives: For individuals with smaller budgets or those seeking a simpler approach, alternatives like donor-advised funds (DAFs) or community foundations may be more suitable.

Overview of Requirements for Section 501(c)(3)

Requirements for exemption under Section 501(c)(3):

- Must be organized and operated "exclusively" for 501(c)(3) purposes (e.g., religious, charitable, scientific, educational)
- No part of its income or assets may inure to the benefit of any insider
- May not provide more than incidental private benefit
- May not have purposes or engage in activities that violate public policy
- May not conduct more than an insubstantial amount of lobbying activities (for a private foundation, no lobbying activities are permitted)
- May not intervene in a political campaign
- May not engage in substantial unrelated business activities (private foundations may only engage in "functionally related" businesses)

Overview of Requirements for Section 501(c)(3)

All 501(c)(3)s are classified as public charities or private foundations:

- A public charity receives most of its funding from a diverse group of sources or meets certain specific requirements (such as a church, hospital or school)
- May not provide more than incidental private benefit
- A private foundation receives most of its funding from a narrow group of sources, often a single individual, family, or corporation

Public charities and private foundations are subject to many of the same rules, but private foundations are subject to additional and more stringent rules:

- Net investment income tax (Section 4940)
- Self-dealing rules (Section 4941)
- Required minimum distribution (Section 4942)
- No excess business holdings (Section 4943)
- No jeopardizing investments (Section 4944)
- No taxable expenditures (Section 4945)

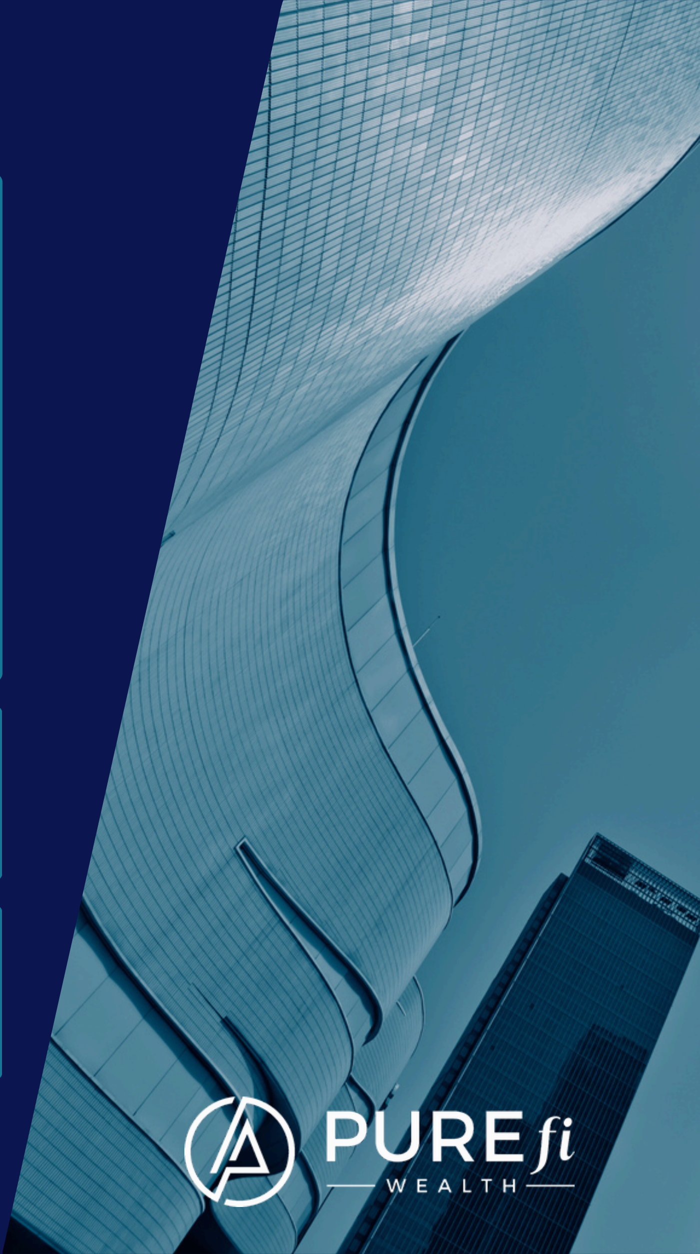
Special Rules for Private Foundations

Private foundations are subject to additional tax restrictions that are not intuitive and carry substantial penalties for violations. These include the following:

- Section 4941 (self-dealing)
- Section 4942 (failure to distribute income)
- Section 4943 (excess business holdings)
- Section 4944 (jeopardy investment)
- Section 4945 (taxable expenditures)

Violating these provisions can subject the organization, its managers or interested parties to excise tax penalties.

Private foundation are also subject to a 1.39% tax on net investment income (Section 4940).



Annual Tax Filings

Annual Federal Tax Filings

- Form 990-PF
- Form 990-T (unrelated business income tax return)
- Tax-exempt organizations must make their three most recently filed Forms 990-PF/990-T publicly available
- Board should review Form /990-PF before it is filed
- Compensation of directors, officers and key employees will be public information disclosed on the Form 990-PF
- Private foundations also have annual state filings for authority to operate in a state and to solicit charitable contributions

Annual State Filings

- Depends on state of incorporation and states in which foundation is operating
- May include/require, for example:
  - Annual report filed with Secretary of State in state of incorporation
  - Annual report filed with charity regulator in states in which foundation operates
  - Audited financial statements
  - Other specific state filings

Fiduciary Duties and Responsibilities

Directors of nonprofit corporations have fiduciary obligations like directors of taxable corporations.

A director should act in good faith with the degree of with the level of care that an ordinarily prudent person in a like position would use under similar circumstances.	A director must make decisions in the best interest of the corporation and put the corporation's interests above the director's personal interests.	Directors have a duty to see that the corporation is faithful to its mission.

Fiduciary duties of nonprofit directors are owed to the corporation and its charitable mission.

How PUREfi Wealth Can Help

- Coordinate with tax and legal professionals for seamless entity formation
- Select and onboard appropriate custodial partners
- Create a customized Investment Policy Statement (IPS)
- Handle account setup and initial funding processes
- Execute investment strategy as defined in the customized IPS
- Facilitate regular advisory and review meetings
- Provide ongoing performance monitoring and reporting

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About PUREfi Wealth

Headquartered in Boston, PUREfi Wealth is an independent wealth advisory boutique. The firm is deeply committed to providing comprehensive, multi-generational advice, wealth planning, and investment management to individuals, families, and their associated entities, and operating under a fiercely independent and objective fiduciary standard through a state-of-the-art open architecture investment and technology platform.