



LAKESHORE COMMUNITY
Foundation

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Converting A Private Foundation To A Fund With A Community Foundation

With all the administrative time, effort, and costs it takes to maintain a private foundation, it has become increasingly popular with philanthropists to dissolve their private foundations and transfer the assets to donor advised funds sponsored by a local community foundation, such as Lakeshore Community Foundation.

With the donor advised fund structure, the community foundation manages fund assets and takes care of legal and accounting obligations for the fund. This structure is in contrast to the private foundation structure where the foundation's board or trustees must manage fund assets and fulfill accounting and legal obligations for the foundation.

The advantages of converting a private foundation to a donor advised fund structure at a community foundation include:

- The **elimination** of:
 - the 5% mandatory distribution requirement;
 - the excise tax payments;
 - the federal Form 990-PF and annual state filings;
 - the public disclosure of contributions, assets, grants, foundation expenditures, and board members.
- The tax advantages are more favorable for a donor advised fund at a community foundation than those for a private foundation.
- Existing board members continue to guide the distribution process by advising on charitable grants from the donor advised fund.
- The community foundation oversees all administrative aspects of the fund such as investment management, vetting grantees, and check writing.
- The community foundation is responsible for legal and accounting obligations for the donor advised fund including the annual audit and tax filings.
- The community foundation's extensive local knowledge can help connect donors to the broader community and help inform them of the specific charitable needs in the community. Community foundations can also help ensure that grant funds are spent wisely and effectively by local charities.

The dissolution of a private foundation and conversion to a donor advised fund must be done in accordance with both federal and state laws.

- *Federal Law.* Under federal tax laws, a private foundation must properly terminate, otherwise a very expensive termination tax may be imposed on the foundation. To properly terminate, private foundations should either:
 1. Transfer foundation assets to an existing public charity, including a donor advised fund with the private foundation's board or trustees named as advisors to the fund;
 2. Transfer foundation assets to another charitable private foundation; or
 3. Convert the private foundation to a public charity. An example would be to convert an existing private foundation into a supporting organization of a community foundation, with the community foundation having board or trustee representation in the supporting organization.

The IRS would be notified of the termination through disclosure on the private foundation's Form 990-PF. If a private foundation transfers assets, such as in scenario #1 or #2, it is critical that the foundation (a) not impose a material restriction or condition on the recipient charity's use of the funds when the assets are transferred, and (b) ensure that the charitable recipient gains complete ownership and control of the transferred assets.

- *Wisconsin State Law.* For Wisconsin state law purposes, a charitable nonstock corporation is generally dissolved by a vote of the majority of the board of directors; or by a vote of the members if the foundation has members with voting rights. In approving the dissolution, the foundation board would also adopt a plan of dissolution to distribute remaining foundation assets to a charity. After the dissolution is approved, Articles of Dissolution must be filed with the Wisconsin Department of Financial Institutions. A Wisconsin charitable trust is generally terminated by the terms of the trust, such as by a vote of the trustees. If the trust agreement does not contain termination provisions, Wisconsin state law provides default provisions for allowing a termination under appropriate circumstances.

Find Out More about Lakeshore Community Foundation

If you would like to find out more about converting your private foundation to a donor advised fund at Lakeshore Community Foundation, please contact:

Rachel E. Wiegert | Executive Director
915 Memorial Drive | Manitowoc, WI 54220
Sheboygan - 920.458.1920
Manitowoc - 920.682.5222
rwiegert@LakeshoreCommunityFoundation.org

Note: A private foundation should seek legal advice prior to terminating or transferring all assets.