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Foundations

Existing Forever Versus Doing Some Good

Philanthropists need to organize their giving so that it ends within a reasonable time after their death.

By Kelly Kleiman | Mar. 29, 2012

An op-ed piece in the *Wall Street Journal* a few weeks ago argued that donors should construct their foundations to spend down assets as rapidly as possible, lest the foundations end up supporting causes their donors would revile. This familiar argument comes with a familiar whipping boy: the Ford Foundation, which has an enthusiasm for assisting the poor and marginalized that was certainly not shared by its eponymous founder, Henry. This focus on donor intent is common in discussions of the ideal lifespan of foundations.

I've never cared particularly about the intent of dead donors. First of all, they're dead, and while death may not extinguish intent as a matter of law, it certainly does as a matter of common sense. Second, how much better off do we really think the world would be if Ford's foundation had spent all its money on Ford's enthusiasms, such as promoting publication of the scurrilous anti-Semitic tract *The Learned Protocols of the Elders of Zion?* Third and most important, the tax-free status of foundations is supposed to encourage philanthropy, not the accumulation of permanently idle, tax-free money.

I've long argued that the minimum expenditure required of foundations is way too minimal and that setting up a structure to give away 5 percent of income shouldn't entitle a donor to a 100 percent tax shelter–whatever his or her intent. Most likely that intent was to escape from taxation, without too much more thought than that.

So let's think about the issue not from the standpoint of donor intent but from the standpoint of social good. Which is more useful for a philanthropy: a) hanging around in perpetuity to grapple with issues that may arise a generation or three from now, or b) spending down in the present and relatively shortterm future on issues that the donor understands and cares about, and that, in any case, are urgent? I'm sure you can guess my position: Spend it down.

Julius Rosenwald saw the wisdom of this approach when he created a program of professional development fellowships for African-American artists. Rather than keep the fellowships around in perpetuity, he ordered that the principal be awarded completely within five years of his death. As a result, nearly every mid-20th-Century African-American artist you've ever heard of received a Rosenwald Fellowship, including Ralph Ellison, Romare Beardon, Katherine Dunham, and Gordon Parks. The value of what Rosenwald did—giving artists enough money so they could work without fear or distraction—is literally incalculable.

But also as a result, hardly anyone remembers Julius Rosenwald, or at least not his fellowship program. So that presents the question: Are we in the business of fostering greatness, or memorializing it? Is remembering a donor as important as creating work through a donor's generosity? Again, the answer is self-evident. I'd rather be grateful for Ralph Ellison than to Julius Rosenwald.

Look, here's the deal: People will make money in every generation, and in every generation some people will make a lot of money. If we tax them properly, they'll look for the opportunity to shelter their money in philanthropy. Why shouldn't we tax them so that they're motivated to spend it philanthropically too? Like the bus, another chunk of money will be along any minute.

Sure, there's a risk of spending too rapidly and with insufficient research (or "due diligence," as people are fond of saying when they want to pretend that the nonprofit sector is really just like a business). But the greater risk is the situation in which we find ourselves now, where philanthropies give out amounts insufficient to make any significant change. No, philanthropy isn't supposed to be society's primary source of support, but while people are busy starving government so they can drown it in the bathtub, private wealth can and should step into the breach.

Consider the contributions of the Gates Foundations to the Global Fund to Fight AIDS, TB, and Malaria. Can anyone really argue that it would be better to hold back on eradicating those diseases, in case there's some bigger plague later on? If there is, as AIDS itself demonstrates, we'll mobilize and raise money for it. Meanwhile, in the case of every ailment, time is our enemy: The later we provide resources, the harder it will be for those resources to make an impact.

Two things need to happen: Philanthropists themselves need to organize their giving so that it ends within a reasonable time after their death, and Congress needs to modify the tax code to require that philanthropies pay out more each year to retain their tax-favored status. A 10 percent annual payout–double the current rate–may end up causing philanthropies to dip into principal, maybe even until they run empty. But remember the words of Citizen Kane as he contemplated the financial difficulties of his newspaper empire: "I did lose a million dollars last year. I expect to lose a million dollars this year. I expect to lose a million dollars *next* year. You know, Mr. Thatcher, at the rate of a million dollars a year, I'll have to close this place in…60 years." Let's take a Kane-like risk of running out of money.

One more story: Sometime in the 90s, Joan Kroc stood up at a Ronald McDonald House benefit to announce her annual gift. Rumor had it she was actually going to make a five-year pledge, and everyone at the table where I was sitting indulged in the parlor game of trying to figure out just how much that would be. We took the previous year's gift ($5 million), expected a little bump (so $6 million) for each of 5 years, and settled on $30 million. She rose to speak—a little woman holding a torn-off piece of yellow legal paper in her hand—and said, "I was going to make a 5-year gift, but then I thought: 'The need is now.' So tonight, I'm giving $50 million to Ronald McDonald Children's Charities." Everyone at the table fell back in their seats, literally knocked over by her generosity and also her insight: *The need is now.*

Aside from Ronald McDonald, Mrs. Kroc mostly supported causes that her late husband disapproved of. If only he'd given more in the present, he wouldn't have had to contemplate a future in which his money went to organizations and causes he despised. So the donor's intention and the sector's need are in sync: Spend it now.

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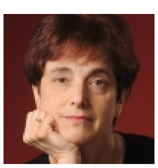

Kelly Kleiman, who blogs as *The Nonprofiteer*, is principal of NFP Consulting, which provides strategic planning, Board development and fundraising advice to charities and philanthropies. She is also a lawyer and freelance journalist whose reportage and essays about social justice, the arts, and woman's issues have appeared in the Chicago pages of the *New York Times* as well as in the *Wall Street Journal, Washington Post, Christian Science Monitor* and other dailies; in magazines including *In These Times* and *Chicago Philanthropy*; in the *Alternative Press*; on Chicago Public Radio and the BBC; and on websites including *The Huffington Post*.

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