

Risk Management

Best Practices for Protecting the Privacy of Your Family Foundation

BALLENTINE PARTNERS

Family foundations are required to publicly disclose sensitive information – but you can take steps to protect your privacy.

Family foundations comprise nearly half of the 76,000 private foundations in the US. Every year, these family foundations are required to disclose information in mandatory filings that become public. Unfortunately, the information contained in these filings can expose families to unwanted solicitations from brokers, charities, and even individuals with criminal intentions.

For example, we have seen situations in which families receive substantial requests from the private schools and universities their children attend, with the requested donation pegged to match donations their foundation has made in the past to similar institutions. These requests lead to awkward conversations and, ultimately, may be very difficult to decline. Similarly, families can be approached by savvy investment managers and brokers who use what they have learned about how the foundation invests to pitch their own services.

And there are potentially broader security concerns. Anyone with an internet connection can use a family foundation's required disclosures to gauge the magnitude of a family's wealth, guess the location of

a family home, and learn names, and sometimes addresses, of family members.

Pro-active, Protective Steps

Fortunately, families with private foundations and those considering establishing foundations can take decisive action to help protect their privacy. Here are a number of steps that families with foundations can take to pro-actively protect themselves.

- Change the foundation's address if it is currently one of the family's residential addresses. It may be best to use the address of the foundation's law firm, wealth manager, or another professional advisor.
- Consider structuring the foundation so that family members are not easily identified as the foundation's leaders. A non-profit corporate structure can give a family the authority and control of a sole stockholder. The family can use this authority to appoint directors and other officers to serve as day-to-day managers of the foundation, but still retain de facto authority over its strategies and operation.
- Use intermediaries to keep the foundation's donations and grants private. Often a donor-

advised fund can be used to deploy funds from a foundation to the charitable organizations; in this case, the foundation's return will not contain information about the specific organizations that the family supports. There are other intermediaries that can also accomplish this. Additionally, a family concerned about maintaining anonymity should seek legal agreements with the charities they support not to disclose their gifts.

- Ask the tax preparer to be mindful of the fact that they are preparing public documents. Much of the specific information about how a family invests can be kept private if the return is prepared thoughtfully. For instance, many times the gain/loss schedules are simply attached directly from each investment manager with their logos attached, which gives outsiders a clear picture of who manages which assets and how. Similarly, grant disclosures are often far more specific than is required by the IRS.
- A family considering the formation of a foundation should choose a name that is not easily connected with the family name.

How private becomes public

Families can also help themselves by becoming more aware of the information that is publicly available about their foundation and how it becomes public.

By law, family foundations must file a 990-PF form every year. The wide range of information requested by this form can be accessed via websites such as GuideStar and Foundation Center, which gather data across the entire nonprofit spectrum. The goals of both sites are laudable: through their online databases, philanthropically-inclined individuals can research organizations they are considering supporting and make better-informed

decisions. However, they also provide users with unfettered access to private information than can be misused.

GuideStar, for example, reveals a foundation's total assets, grants made to the foundation, and the family's annual giving requirement. Families whose foundations use their own name and who use their residence as the foundation's address inadvertently advertise their wealth and their primary location.

The names of people to whom the foundation made grants become public in this process. Outsiders can also discern which professional advisors and investment managers the foundation employs. In effect, this creates an unprotected roadmap of how a family is connected to various individuals and organizations.

Ultimately, websites such as GuideStar and Foundation Center (augmented by powerful search engines that crawl the "deep web") can deliver a considerable amount of sensitive information.

There are additional formal documents that become publicly available in the process of establishing and running a foundation. Formation documents are available from a family foundation's state of incorporation and disclose the foundation's mission, directors, etc. All financial statements filed in the foundation's resident state also are available to the public.

The Internet provides the public with a wide range of information about a family foundation

- The foundation's total assets
- Grants made to the foundation
- Grants made from the foundation
- The foundation's annual giving requirement
- The foundation's address
- The directors and trustee's names
- How the foundation invests
- The names of the foundation's professionals and the other employees and the amount they are paid
- Expenditure disclosures

Conclusion

In addition to funding many worthy causes, family foundations enable families to focus their charitable efforts, create a legacy, and involve multiple generations in a united effort. It is a shame that philanthropically-minded families are vulnerable to the misuse of their personal financial information, however, families are by no means defenseless. Applying the best practices in this article will significantly reduce the risk that a family's private information will be misused.

This report is the confidential work product of Ballentine Partners. Unauthorized distribution of this material is strictly prohibited.

The information in this report is deemed to be reliable but has not been independently verified. Some of the conclusions in this report are intended to be generalizations. The specific circumstances of an individual's situation may require advice that is different from that reflected in this report. Furthermore, the advice reflected in this report is based on our opinion, and our opinion may change as new information becomes available.

Nothing in this presentation should be construed as an offer to sell or a solicitation of an offer to buy any securities. You should read the prospectus or offering memo before making any investment. You are solely responsible for any decision to invest in a private offering.

The investment recommendations contained in this document may not prove to be profitable, and the actual performance of any investment may not be as favorable as the expectations that are expressed in this document. There is no guarantee that the past performance of any investment will continue in the future.

BALLENTINE
PARTNERS

info@ballentinepartners.com
<https://ballentinepartners.com>