Structuring your charitable giving (the choice between direct giving or via PAFs)

Comments by Ron Manners,
Mannkal Economic Education Foundation
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Our Mannkal Economic Education Foundation was one of the first PPFs in W.A., formed in 2002, and over the years I have enthusiastically encouraged many people to form their own PPF / PAF.

Back in 2002, when I went into Freehills Office in Melbourne, I was instructed how to download the model constitution from the website and how to get started. The whole exercise cost around $2,500 and we were up and away.

However, eleven years later I have just created four new PAFs, one for each of my four children, so I'm qualified to comment on how the procedure had deteriorated n ten years, both from a cost point of view but, even more significantly, from the administrative nightmare currently surrounding PAFs.

Last year it cost us over $10,000, in legal fees to defend us from the ATO who accused us of 'doing too much'.

Granted that our PAF has expanded considerably over the eleven years, as one would expect, but there is no provision for expansion under the current PAF regime.

We are now accused of 'benefiting students' when a PAF is only permitted to 'benefit universities or other DGRs'.

Our benefits to students are always via universities or DRGs.

I make an interesting comparison between the structure of such charitable giving in Australia vs in the USA.

I'm on the Board of Overseers of the Atlas Economic Research Institute in Washington, DC where we oversee the operations of some 300 such philanthropic entities.

Granted, many have been operating much longer than Australia's eleven year time frame.

In the U.S.A. the major drivers of discussions and planning are 'donor intent'.

In Australia the major drivers of such discussions are 'compliance' with the changing rules.

In the U.S. philanthropy is enthusiastically encouraged.

If you read the PAF documentation in Australia it is laced with the language of threatening penalties.

When the latest range of changes to the governing rules were proposed, in December 2008, Mannkal submitted a comprehensive document demonstrating how so many of their proposed changes would have unintended long-term consequences wholly at odds with their own good intensions. I have copies of our submission with me but if you would prefer to access it as a link the URL is; http://www.mannkal.org/downloads/submissions/sub20090108.pdf

Many of these changes were not proceeded with but some aspects of what did emerge appear to be a cross between the old BBC programs of *Yes Minister* and the *Goon Show*.

For example the Corporate Trustee for each PAF must have a 'Responsible Person'.

Who in their right mind would take on the role of 'Responsible Person' when they are surrounded by a Board who could democratically vote to do something contravening the rule book?

This builds in a potential conflict from day 1.

We have covered this particular 'conflict' with a comprehensive Directors & Officers Insurance Policy, but this now resembles the corporate world of nonsense, that I hoped to have escaped from.

So, to sum up.

1. I can see only one remaining benefit for PAFs and that is to 'warehouse tax liabilities', i.e. if you have a particularly good year, it is difficult to efficiently donate a large amount, so this amount can be stored n a PAF and then efficiently distributed over ensuing years.

   Other than that, I would recommend simply donating to your favourite charity directly and avoid the spider web of PAF complexities.

2. So, when anyone asks me, "Should they start their own PAF?" I say, "Stop, consider and talk to me over several cold beers."

R.B. Manners.
Chairman
Mannkal Economic Education Foundation