Royston Capital

Philanthropy - Private Ancillary Fund (PAF)

A Private Ancillary Fund (PAF) is a philanthropic trust, a charity established by a family to meet their charitable objectives in a structured and formal manner. PAFs are governed by the Australian Tax Office (ATO), as outlined in the Private Ancillary Fund Guidelines 2009. Some of the key characteristics and requirements of PAFs are detailed below.

PAF Requirements

Structure:
PAFs are required to be structured as a Trust with Corporate Trustee. The directors of the Trustee company are traditionally the founding family members, plus there is a requirement for a "responsible person" (generally a lawyer/ accountant / adviser) to be appointed as an independent director.

Non-profit Objective:
The trust deed must be drafted in accordance with ATO non-profit guidelines, the key requirements being:

- The PAF is a non-profit entity
- The deed has appropriate non-profit wind up clauses

The PAF is operated in Australia.

Deductible Gift Recipient:
Provided the ATO are satisfied a PAF meets all of the requirements, it will be endorsed as a deductible gift recipient (DGR). This enables the founding family to make deductible gifts to the PAF.

Income Tax Exempt Status:
Provided the ATO are satisfied the PAF meets all of the requirements, it will be endorsed as a tax exempt entity. This also entitles the trust to receive a refund of imputation credits (earned on investments).

Minimum Annual Distributions:
PAFs are required to distribute at least 5% of the market value of the fund's net assets (at the end of the previous financial year) to other deductible gift recipients/ endorsed charities..

Other Requirements:
Requirement for governing rules of fund to include various clauses in relation to liability of trustee, and other Governance issues.

- Strict rules in relation to valuation of fund's assets, including the requirement for the estimate of the fund's assets to be conducted within 2 months of the year end date.
- New disclosure requirements for the Financial Statements including related party disclosures.
- Auditor is required to audit compliance with the Guidelines in addition to the Financial Statements of the fund.
- Trustee must prepare and maintain an investment strategy for the fund. The strategy must be documented, and reflect the purpose and circumstances of the fund and have particular regard to:
  - The risk involved in making, holding, realising and the likely return from the fund's investments,
  - The composition of the fund's investments as a whole,
  - The liquidity of the fund's investments
  - The ability of the fund to discharges its existing and prospective liabilities, and
  - The investment requirement imposed by State/ Territory laws.
- The Trustee must implement the investment strategy and ensure all investment decisions are made in accordance with it.
- Restrictions in relation to transactions with related parties (donors/founders).
- Restrictions in relation to the acceptance from donations from the public.

Advantages of a PAF
The alternative to establishing a PAF would be for each family member to donate directly to charities in their own name. Whilst PAFs may not be appropriate for every family, we believe they have the following advantages.

- The PAF establishes a family legacy – ongoing giving in the family name. Note the trust can continue indefinitely.

- The PAF could be a mechanism to involve the next generation in wealth management and foster family values.

- The requirements for a PAF to donate in a formal manner often results in a better informed donation decision that is based on the family's trust philanthropic objectives (rather than just once off cause). Generally, the directors of the PAF would set the philanthropic strategy of the trust, detailing various charitable causes the founders wish to support. The directors would select the appropriate charities to support throughout the year and distribute the grant monies accordingly. It is extremely common for charities to report back to a PAF (regarding the use of the grant monies) to enable the directors to evaluate whether the grant was successful and potential future grants.

PAFs are tax effective. Family members can obtain an immediate tax deduction for contributions to the PAF (prior to having to make a decision regarding which charity they wish to support).

Our Service and Experience
Chris Boag, Director of Royston Capital, has held positions with Melbourne Community Foundation (now Australian Communities Foundation) and worked with a number of Private Ancillary Funds.

Royston Capital can assist with the following:

- Establishment of your Private Ancillary Fund including: Purpose of the PAF, its goals and objectives
    - Establishment of Trustee and the Trust Deed
    - Deductible Gift Recipient endorsement
    - Opening of a bank account

- Assistance with grant making including: Minimum grant / distribution requirements are met each year
    - All grants are paid to eligible organisations
    - Grant activity is consistent with the deed.

- Investment advice and administration including:
    - Establishment of review of the Investment policy
    - Investment advice and administration of the PAF assets

- Coordination of administration and compliance obligations including:
    - accounting and audit
    - annual compliance plan and pre-30 June checklist to ensure adherence with the PAF Guidelines 2009