

Structuring Private Philanthropy: The Private Foundation and Beyond

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Structuring private philanthropy

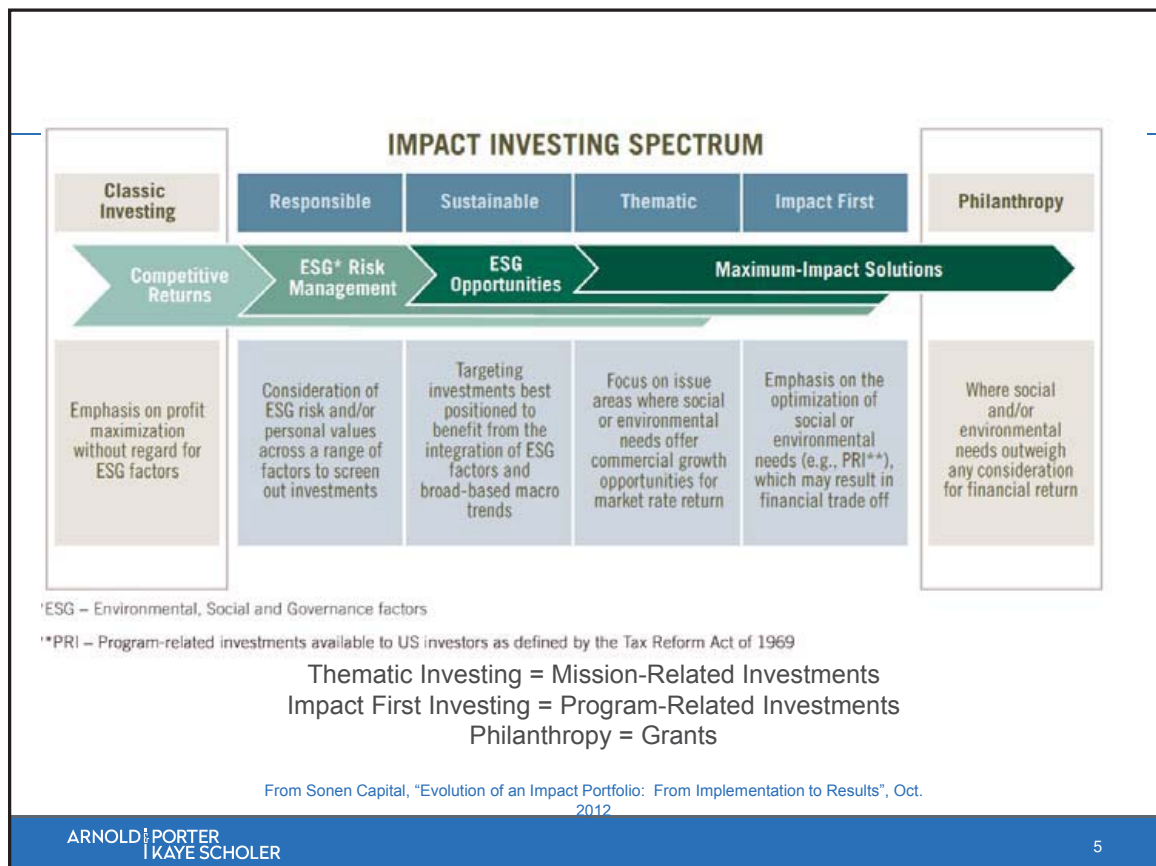
- Donors are moving past the traditional estate planning model of only funding a private foundation before or at death
- Increasingly, donors are using private foundations as one vehicle among many in structuring private philanthropy
- Consider what options and vehicles are available (1) within the private foundation, and (2) outside the private foundation
- General factors to consider:
 - Control over the use of funds
 - Donor privacy, disclosure, publicity
 - Donor liability (individually or entities the donor controls)
 - Donor tax implications (charitable deduction, gift tax, transfer of appreciated securities, etc.)
 - Tax rules for different nonprofit vehicles
 - Ownership, commercialization of resulting intellectual property
 - Timing of gifts
 - Short-term v. long-term impact

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- Options within the foundation
 - Grants to individuals, nonprofit organizations, for-profit organizations and foreign organizations
 - Impact investments
 - Program-related investments (PRIs)
 - Mission-related investments (MRIs)
- Options outside the foundation
 - Individual giving from the donor
 - Funding other nonprofit vehicles
 - Donor-advised fund, supporting organization, public charity, medical research organization, social welfare organization, PACs, etc.
 - Joint venture between foundation and nonprofit organization, for-profit organization or governmental entity
 - Single-member LLC structure
 - Foundation, donor or another donor entity is sole member
 - Impact investments
 - Advocacy/ political engagement

Private foundation grants

- Funding can go beyond grants to public charities
- Foundation must structure grants to avoid making taxable expenditures under §4945
- Funding advocacy and lobbying through general support or project grants to charities
 - Grants cannot be earmarked for lobbying, but the foundation can fund up to the non-lobbying portion of the project and the grantee can use the grant funds for lobbying
- Grants to 501(c)(3) fiscal sponsors
- Grants to non-charities require expenditure responsibility
- Grants to foreign organizations require expenditure responsibility, an equivalency determination or use of an intermediary organization
- Grants to individuals require an intermediary organization or advance approval procedures under §4945(g)



Program-related investments (PRIs)

- PRIs are investments made by private foundations to support charitable activities that involve the potential return of capital
- PRIs include loans or loan guarantees to individuals, nonprofits and for-profits and equity investments in for-profits
- PRI requirements:
 - Primary purpose is to accomplish one or more of the foundation's exempt purposes;
 - Production of income or appreciation of property is not a significant purpose; and
 - Influencing legislation or taking part in a political campaign on behalf of a candidate for public office is not a purpose

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