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Nonprofit Newsletter Fall 2016 - INVESTING IN INDIVIDUALS: Best Practices for Charitable Gifts to Individuals

Doris Buffett, the sister of Warren Buffett, has recently been in the news regarding her request for assistance from Boston-area volunteers with her efforts to gift millions of dollars to disadvantaged individuals. Ms. Buffett provides funds to individuals who have fallen on hard times, with special empathy for the working poor and families in crisis, largely through her private foundation, The Sunshine Lady Foundation, Inc. Ms. Buffett's goal is to provide "life-changing" grants; her gifts average $4,800, though they can be much larger.

The generosity of Doris Buffett is inspiring and contagious. To the extent this strikes a chord with others who want to assist those less fortunate, there are a variety of considerations to take into account when making gifts to needy individuals.

For those who will make grants from a private foundation to individuals for purposes other than travel and study – for example, grants to aid the indigent – it is not necessary to apply to the IRS in advance for approval of grant-making procedures. However, grants must be made in furtherance of the charitable purposes for which the foundation was organized, to recipients who make up a charitable class and are selected in a nondiscriminatory and objective manner. Finally, grant programs may not create improper benefits or allow for private inurement.

It would be wise to develop a grant application and to maintain documentation of the grants in order to establish that they are made for charitable purposes and do not provide an undue benefit to a private individual. Documentation should generally include a complete description of the assistance provided; the purpose for which the aid was provided; how the recipient was selected; the recipient's name and address and the amount distributed to the recipient; any relationship between a recipient and officers, directors, key employees or substantial contributors to the foundation; and the composition of the selection committee approving the assistance. Consideration should also be given to hiring a social worker to assist in putting the grants to effective use.

For those who wish to personally provide financial assistance to disadvantaged individuals, the simplest solution might be to make an outright gift to accomplish this goal. So long as the total gifts to any one individual are not in excess of the annual exclusion amount (currently $14,000, or $28,000 if the donor is married and his or her spouse agrees to "split" the gift), there are no tax reporting requirements and such gifts will not count against an individual's lifetime exemption from federal estate and gift tax. Although the catalyst for charitable gifting is generally altruistic rather than tax-related, it is important to note that there is no income tax deduction for personal gifts made directly to needy individuals for charitable purposes.