STEP JOURNAL

Downloaded on 29th July 2026 - 10:15

Philanthropic structures

Lara V Piechulla, Quentin Huybens TEP and Daniel Schüttpelz TEP outline the considerations for structuring cross-border philanthropy, comparing the treatment of charitable donations across Germany, France and the UK

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What is the issue?

Cross-border donations to charitable organisations may not qualify for income tax relief and may also be subject to gift or inheritance tax if the requirements of the donor's home country tax regime are not met.

What does it mean for me?

Cross-border donations need to be carefully reviewed and planned from a tax perspective to ensure that the requirements for a tax-efficient donation are met.

What can I take away?

The right structure for a cross-border donation may reduce tax leakage on charitable donations, minimise uncertainty regarding tax and legal requirements and reduce tax risk. This article provides examples from several countries of how this can be achieved.

Philanthropic engagement is growing in both scale and geographic reach. Although the core purpose remains to improve societal wellbeing, a dedicated family philanthropic structure can serve as a unifying focal point, providing shared purpose and fostering cohesion across generations.

For ultra-high-net-worth (UHNW) families, tax-deductible giving enables structured, long-term philanthropy that aligns with broader wealth-planning goals. By reducing the effective cost of giving, tax incentives encourage larger, more sustained commitments and support the creation of professionalised vehicles, such as private family foundations and donor-advised funds (DAFs), which embed purpose into governance and strengthen multigenerational engagement. These objectives, however, increasingly depend on choosing structures that can accommodate differing domestic tax rules governing international charitable giving.

Experience shows that, in many countries, donations made by individuals directly to charitable entities abroad, including those within the EU and EEA, face significant hurdles. Alternative structures, such as intermediary local charitable organisations (often taking the shape of a DAF), should therefore be considered to ensure both income tax deductibility and gift and inheritance tax (IHT) exemptions.

> ***Charitable trusts offer a flexible way for HNW families to combine philanthropy with estate planning, asset protection and tax-efficient wealth transfer.***

Common philanthropic structures used by UHNW families

Private family foundations

In Switzerland, these are formally recognised charitable entities that allow families to pursue long-term philanthropic strategies while retaining control over grant-making. They provide a structured, professional framework for engaging multiple generations, ensuring continuity, accountability and the preservation of family values within a lasting philanthropic institution.

DAFs

These are philanthropic vehicles managed by a public charity that allow donors to make tax-deductible contributions and recommend grants over time. As the sponsoring organisation handles all regulatory, administrative and reporting obligations, DAFs offer a lighter, more flexible alternative to private foundations.

Charitable trusts

Charitable trusts offer a flexible way for HNW families to combine philanthropy with estate planning, asset protection and tax-efficient wealth transfer. As trusts are not inherently charitable, most jurisdictions require registration with the relevant charity authority and a deed confirming that the trust's exclusive purpose is charitable and that it is compliant with relevant regulatory obligations.

Example

Donations made by a German tax-resident individual directly to a charitable Swiss foundation generally do not qualify for an income tax deduction in Germany. The *German Income Tax Act* limits deductible donations to domestic entities or those established within the EU or EEA.

This was recently confirmed by the German Federal Fiscal Court (*Bundesfinanzhof*, BFH).[1] The BFH ruled that a donation to a charitable foundation resident outside the EU or EEA, such as in Switzerland, is not tax-deductible in Germany unless the organisation fully meets German charitable law requirements. Recognition as charitable under foreign law is insufficient; the taxpayer must prove that both the foundation's governing documents and its actual management comply with the *Fiscal Code of Germany*, including detailed evidence of how funds are used. Failing this, a deduction under the German *Income Tax Act* must be denied, highlighting the strict evidentiary burden for donations to charities in third countries.

However, such a donation may still be exempt from German gift tax if:

- it is dedicated to ecclesiastical, charitable or benevolent purposes within the meaning of the *Fiscal Code of Germany*;

- the proper use of funds is ensured through statutory provisions, a formal donation agreement or oversight by a competent authority; and
- the donation is structurally connected to Germany, for example, if the foundation supports beneficiaries in Germany or enhances Germany's reputation abroad, even by publicly naming the donor on the foundation's website.

Similar principles apply to donations by German tax-resident individuals to charitable Liechtenstein foundations. The foundation must satisfy German charitable-law requirements, the donor bears the burden of proof, and the donation must have a sufficient structural connection to Germany.

Additionally, Liechtenstein authorities must assist German authorities in cross-border tax matters, and the donation must again be structurally connected to Germany. If these requirements are satisfied, the donation may be deductible for German income tax purposes. This, however, is subject to the issuance of an official donation receipt and registration of the foundation in the German register of eligible donation recipients. The donation may also be exempt from German gift tax. This exemption may be retroactively revoked if any of the relevant conditions cease to be met within ten years of the donation and the funds have not been used for charitable purposes. Ongoing compliance with German charitable law is therefore required, both at the time of the donation and subsequently by the Liechtenstein foundation.

> ***For internationally mobile families, successful giving depends on choosing structures that combine effective governance with tax efficiency across multiple jurisdictions.***

Intermediary charitable vehicles

As an alternative for donations both within and outside the EU and EEA, routing the gift through a local charitable intermediary organisation may be the most effective option. This local charitable intermediary organisation then forwards the donation to a charitable foundation in Switzerland, Liechtenstein or further afield.

Germany

The intermediary structure may simplify compliance with German tax requirements, as the initial recipient of the donation is a German charitable organisation already recognised under German tax law. For the German charitable organisation, the requirements for forwarding the donation to a charitable organisation within or outside the EU and EEA are mainly that the legal form of the foreign organisation resembles that of a German corporation and that the donated funds are used for

charitable purposes in accordance with the *Fiscal Code of Germany*.

This organisation may be a specialised and transnational, but it may also be a charitable organisation established by an individual where regular cross-border donations are planned. Advisors should therefore consider whether a domestic intermediary charity offers a simpler route to achieving both philanthropic and tax objectives.

France

Under French income tax rules,[2] donations to non-French charities may be tax-deductible, but only under strict conditions. To qualify, the foreign organisation must meet the French definition of a charitable entity[3] and be established either in the EU or in an EEA country that has signed an administrative cooperation agreement with France, such as Iceland, Liechtenstein or Norway. Other overseas charities (for example, in the UK or Switzerland) do not qualify.

For French inheritance and gift-tax purposes, the position is also restrictive. By default, gifts or legacies to non-French charities are taxed at a rate of 60 per cent where they are made by a French tax resident or involve assets located in France. An exemption is only available if the foreign charity obtains formal approval under art.795-0 A of the French Tax Code. Once approved, the charity is treated as a French public-interest organisation and benefits from full exemption from inheritance and gift tax.

Even where a donation is made to a DAF, grants to a non-French charity established outside the EU or EEA can only be made once the foreign charity has first obtained official French tax approval. This makes early structuring particularly important where French residents intend to support overseas charities.

UK

The UK government has restricted charitable tax relief to UK-based charities since 15 March 2023.[4]

As such tax relief is no longer available on donations to non-UK charities (including EU and EEA charities following Brexit), UK taxpayers cannot claim UK income or capital gains tax relief on such donations. Similarly, the reduced 36 per cent IHT rate for leaving 10 per cent of an estate to charity applies only if the recipient is a UK charity.

To qualify for UK charitable tax relief, a charity must fall within the jurisdiction of the High Court in England and Wales or Northern Ireland, or the Court of Session in Scotland.

There are various DAFs operated by UK-registered charities that allow donors to recommend grants to overseas charities while obtaining immediate tax (income or inheritance) relief on donations made. However, a UK DAF must demonstrate that the foreign recipient will use the funds solely for purposes considered charitable under UK law.[5] It is not sufficient that the foreign organisation is recognised as a charity in its home jurisdiction.

Overall, cross-border charitable donations must comply with stringent legal and tax requirements. Careful planning, detailed legal review and ongoing compliance monitoring, particularly where foreign foundations are involved, are essential. UK-based DAFs may therefore provide a practical solution where international giving remains a priority.

Cross-border philanthropy is no longer simply a question of charitable intent. For internationally mobile families, successful giving depends on choosing structures that combine effective governance with tax efficiency across multiple jurisdictions. Integrating these considerations from the outset will help ensure that philanthropic objectives can be sustained over the long term.

- [1]

  BFH, judgment of 1 October 2025, X R 20/22

- [2]

  Code général des impôts (French Tax Code)

- [3]

  'Organisme d'intérêt general'

- [4]*Amending para.2, sch.6 to the Finance Act 2010*
- [5]

  Annex ii: non-charitable expenditure, s.9

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