

Anchoring your
philanthropic efforts
in Asia

Whether and where
to set up your philanthropic
vehicle

Over **75%** of philanthropic
foundations in Asia-Pacific
were established in the
21st century

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Introduction

Philanthropists around the world use a variety of different structures to power their work. The Rockefeller family in the US set up one of the world's first philanthropic foundations in 1913, and it survives to this day. By contrast, MacKenzie Scott has given away more than USD10 bn over the past two years without any formal structure, beyond a team of advisors in her family office. Sitting in between full-fledged foundations and direct donations, new legal models, such as limited liability companies (favoured by Mark Zuckerberg), donor-advised funds (favoured by Elon Musk), and decentralised autonomous organisations (favoured by his brother Kimble Musk) are growing in popularity.

Although charitable giving is an age-old tradition in Asia, structured philanthropy in the modern sense is relatively new to the region. In recent decades, many families have been setting up foundations or charitable trusts to create legacies and support local and global initiatives. As more and more families engage with philanthropy, due in part to the ever-increasing levels of private wealth across the continent, the number of foundations has skyrocketed in recent years. According to a Harvard report, in 2018 there were 13,170 philanthropic foundations in Asia-Pacific, over 75% of which were established in the 21st century¹. In China, the number of charities grew from fewer than 2,000 in 2009 to over 11,000 by 2022.²

¹ Harvard Kennedy School of Government, 2018, "Global Philanthropy Report: Perspectives on the Global Foundation Sector"

² Chinese Ministry of Civil Affairs

Why do I need a philanthropic vehicle?

Most of the world's renowned philanthropists choose to establish their own structures for giving, some even setting up multiple different vehicles to pursue different priorities, for different family members or to maximise tax efficiencies. However, depending on the jurisdiction, registering and administering a philanthropic structure can be cumbersome, time consuming and expensive. So what are the benefits of doing so?

First, setting up your own philanthropic vehicle can help to build and strengthen the legacy of your work. A foundation that carries the family name associates the impact it creates with that family's values. What's more, the family legacy can live on even when the family no longer plays an active role. The Nobel Foundation in Sweden is a good example. Originally founded by the last will of Alfred Nobel

(Public Charter) in Singapore can also serve as platforms for collaboration through private and public fundraising.

Third, choosing the right philanthropic vehicle can be helpful for the long-term management of your philanthropic capital. Although a growing number of philanthropists only want to give within their lifetime, many still choose to set aside a portion of their wealth to endow a foundation in perpetuity. If managed and invested properly, these assets can not only last, but grow, which means the foundation has scope to increase its giving over time. It is also becoming increasingly common to focus investments on projects that are in line with the values of the parent foundation.

“Setting up your own philanthropic vehicle can help to build and strengthen the legacy of your work”

to fund the Nobel Prizes, it no longer receives funding from the Nobel family, but provides funding through the effective management of its endowment. It is also professionally run, with no active role played by the Nobel family in its administration. Despite this, its impact is still inextricably intertwined with the family's name and values.

Second, a philanthropic vehicle can facilitate the kind of philanthropy you want to pursue. If you want to run your own programmes and employ staff, setting up a foundation could be the best option. In some countries, philanthropic vehicles such as foundations in Hong Kong, or IPCs (Institution of a

Choosing the right location – key deciding factors

One of the first steps in setting up your philanthropic vehicle is deciding where it should be based. Many philanthropists choose their home countries by default, but some opt for a different location or several. Below we present some of the key factors to consider when choosing a location for your philanthropic vehicle.

1. REGISTRATION

Registering a foundation or charitable trust in Asia is generally more complex than setting up a company, as legislation around the latter has become more friendly due to the pro-business mindset that has fuelled the region's rapid growth in recent decades. In some countries, registering a foundation can take years, and approvals from various government agencies may be required.

Key questions to consider: What are the requirements for the registration? How long does the registration take? How much does the registration cost? Is there requirement for registering capital?

2. GOVERNANCE

The governance structure of a philanthropic vehicle determines the resources and efforts required to run it. To increase public trust in philanthropy, the governance of philanthropic structures is strictly regulated in a number of Asian countries. A key aspect to consider is whether and how the philanthropists and their families can ensure that they can steer the direction of the organisation with input from experts and other stakeholders.

Key questions to consider: What are your and your family's governance requirements? Are there any requirements about the composition of boards in your chosen jurisdiction that might conflict with your plans? Are there any staffing obligations? What are the regulatory reporting requirements?

3. ACTIVITIES

Most philanthropists naturally prefer to operate in jurisdictions that impose few restrictions on the activities that their philanthropic vehicle can conduct. Another consideration is that with philanthropic vehicles often enjoying preferential tax treatment from regulators, many countries want to put in place some constraints so that a foundation's charitable purposes are clear and to ensure that most of the benefits reach the local community. This is particularly pertinent in Asia, where most countries are aware of the need to improve the lives of their citizens and want philanthropists to focus on their home countries.

Key questions to consider: What are recognised as charitable purposes? What can be the recipients of funding? Can charitable expenditure take the form of investment with returns? Are there any geographic restrictions regarding the activities? What is the process for cross-border giving?

4. FINANCIAL

A key aspect for any philanthropic vehicle is managing its inflows, outflows and investments. Ideally, the structure should be able to receive tax-deductible contributions, control the pace of its pay-outs and seek to increase the value of its philanthropic capital with minimal restrictions on the investment strategies it pursues. Rules governing such matters vary widely across Asia.

Key questions to consider: What is the tax exemption policy? Are there any restrictions on fundraising? What is the minimum annual pay-out? Are there any restrictions on investments? Are there any restrictions on for-profit activities?

Hotbeds of Asian philanthropy

As two major financial hubs in the region, Hong Kong and Singapore have been attractive destinations for philanthropic vehicles for many years. They both offer certain advantages and disadvantages. With the two cities trying to attract more investors, especially family offices, in recent years, the regulatory environment for philanthropy has received increasing attention, and looks set to continue to do so.

HONG KONG

Known for its market-friendly policy environment and free flow of capital, Hong Kong has a long history of charity and has been an attractive destination for philanthropic structures for many years. The city is home to a significant number of local and overseas organisations as well as several globally renowned philanthropic families, who are supported by a government that encourages the philanthropic sector to take the lead in addressing a variety of social issues. In recent years, Hong Kong has

the endowment. This enables the philanthropic vehicles to support a range of activities around the world with a relatively light administrative burden.

However, partially as a victim of its own success, the registration process has slowed down significantly, and there is currently a long backlog. It can take up to a year to register a charity in Hong Kong. And despite an unsuccessful attempt to introduce an ordinance on charities and set up dedicated government agency to manage the affairs, the entire eco-system now still relies on a network of precedents and policies that are relatively uncertain.

“Hong Kong offers one of the most flexible environments for philanthropic vehicles in Asia”

become especially popular with Chinese philanthropists thanks to its unique position as a gateway to mainland China.

Among various types of tax-exempt charitable organisations that are recognized by Hong Kong’s Inland Revenue Department, the two main types are companies limited by guarantee or charitable trusts. They need to go through an application process stipulated in the section 88 of the Internal Revenue Ordinance. These organisations can also conduct fundraising and provide tax deduction receipts for donors.

Hong Kong offers one of the most flexible environments for philanthropic vehicles in Asia. There are limited regulatory requirements regarding governance structures, few restrictions on the activities the vehicles may conduct, and significant leeway regarding fundraising and asset management for

SINGAPORE

Singapore is well known for its effective administration, and the Singaporean government has always been committed to developing a regulatory and policy environment that is supportive of philanthropy in the country. Its efforts have included appointing a Commissioner of Charities (“CoC”) within the Ministry of Culture, Community and Youth, whose role is to strengthen the charity sector.

In Singapore, charitable structures can take the form of a trust, fund or company limited by guarantee. To receive exemption from corporate income tax it is necessary to register as a charity with the CoC or a not-for-profit tax incentive (NPOTI) organization through the International Organisations Pro-

“The Singaporean government has always been committed to developing a regulatory and policy environment that is supportive of philanthropy in the country”

gramme Office of the Economic Development Board. The latter is designed for organisations with global and regional mandates. In order to issue a 250% tax deduction receipt to donors, charities can apply for the Institutions of a Public Character (IPC) scheme or the Tax Deduction Scheme for Grantmakers. However, these schemes involve a caveat, in that the funding has to be channelled to local projects.

Thanks to the 250% tax deduction for IPCs, Singapore offers one of the world’s most generous tax policies to encourage philanthropy. However, it still differentiates between philanthropic capital for local and overseas activities, with policy primarily supporting local initiatives. For example, the country’s 80/20 rule requires charities involved in raising funds from the Singaporean public to allocate at least 80% of the funds raised to Singapore-based projects. There are also specific requirements covering the governance of charities, including the number of local board members, and regulatory and disclosure requirements are relatively stringent.

Recognising the opportunity to attract more foreign non-profit organisations to set up operations in the country, the Singapore government has extended the NPOTI scheme, which was first introduced in 2007 and scheduled to expire on 31 March 2022, to 31 December 2027. The government is also looking to find new ways to cement Singapore’s status as a regional philanthropic hub.

A new trend in Asia: donor-advised funds

As mentioned earlier, many philanthropists in the US and Europe are choosing a middle ground between direct donations and establishing a dedicated foundation by setting up donor-advised funds. These vehicles are giving accounts established at a public charity that enable donors to make charitable contributions, receive an immediate tax deduction and recommend where grants from the fund are directed to³.

This option provides a number of benefits, including the ability to give anonymously, tax advantages, simplicity and cost-effectiveness. They also enable donors whose amount of assets may not warrant the administrative costs of running a separate foundation to set up a platform for ongoing engagement and to create a legacy. An additional benefit is that there are no minimum payout requirements. In

“With more countries looking at new ways to encourage giving, we expect DAFs to gain in prominence”

some countries, however, DAFs have attracted negative headlines due to their relatively secretive nature, limited oversight and the fact they are under relatively little pressure to make donations.

DAFs are still quite a new concept in Asia. Singapore has been a pioneer, with the Community Foundation of Singapore a prominent example, serving as an umbrella platform for DAF accounts. With more countries looking at new ways to encourage giving, we expect DAFs to gain in prominence.

Conclusion

Setting up a legally registered entity to power your philanthropy needs a lot of careful thought, not only in terms of choosing the right vehicle, but the right location. Hong Kong and Singapore are attractive options in the eyes of many Asian philanthropists, but other Asian countries are catching up and updating their policies to attract the increasing amount of philanthropic wealth in the region. We are confident that these developments will help Asian philanthropists increase their impact and achieve their goals.

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