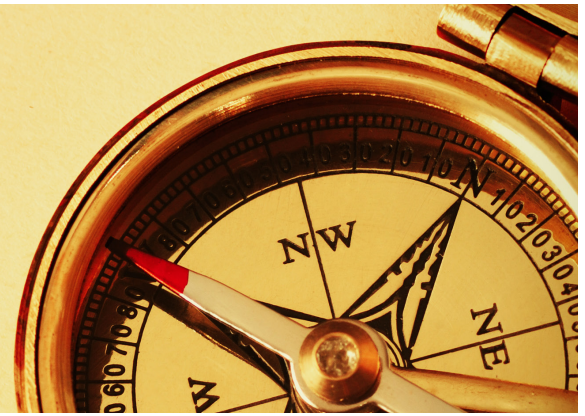


# WEALTH STRATEGY & CHARITABLE GIVING



CAF America's initiative, *Wealth Strategy and Charitable Giving*, is an interview series about the ways that philanthropy and wealth services intersect, featuring leading wealth advisors and professionals dedicated to incorporating charitable planning in their practice.



Brad works extensively with nonprofit organizations, navigating tax, regulatory, and governance matters, guiding charities and other nonprofits through formation, reorganizations, mergers, affiliations, and dissolution, and advising on innovative use of charitable assets, including social impact bonds and other forms of impact investing.

Brad also provides planning advice for international and domestic families, including structured charitable giving, estate planning and lifetime gifting strategies, and coordination of tax and legal requirements for cross-border families.

Brad has over a decade of private practice with national firms and also previously worked as a tax law specialist with the Exempt Organizations Division of the IRS in Washington, D.C. He currently serves as Co-chair of the Boston Bar Association Tax Exempt Organization Section and is member of the Professional Advisory Board of CAF America and the Professional Advisors Network of the Boston Foundation.

## WEALTH STRATEGY AND CHARITABLE GIVING: A Conversation with Brad Bedingfield, Counsel, Hemenway & Barnes, LLP

**CAF America:** What is the focus of your work?

**Brad Bedingfield:** I represent a variety of clients, from high net worth individuals with a focus on planned giving to tax-exempt organizations.

**CAFA:** Does your work with tax-exempt organizations translate into any tangible benefits for your relationship with high net worth individuals?

**BB:** It really does. In particular, it's very helpful when speaking to clients about planned giving. Many donors want to have absolute control over every penny they give and they want their children to have that control too. Realistically, it doesn't work that way. From my work with tax-exempt organizations, I have a better understanding of the needs of these organizations and I can pass this knowledge onto my individual or family clientele.

As an example, I represented a tax-exempt organization that had received a large gift many years ago to support a particular area of research that was no longer relevant. Repurposing funds like that generally requires working with the Attorney General's office to file a court petition allowing the organization to use those funds in another way. While the court will try to ascertain and follow the donor's apparent intent in approving an alternative use, the donor and the donor's family generally would not be part of those court proceedings. However, had the donor worked with the charity up front to develop some acceptable alternative uses for these charitable funds to which the charity could turn if necessary without having to go to court, the donor would effectively have had more influence on the potential alternative futures of their gift.

**CAFA:** Is knowledge of charitable giving vehicles a fundamental requirement for wealth advisors?

**BB:** Definitely. It's important to have familiarity with how charitable remainder trusts (CRTs) work and the differences between DAFs and private foundations. I don't think it's necessary to be an expert in all, but it is good to know enough about each so that you can present them to a client who has expressed some interest in philanthropy, but doesn't know how or when they want to go about it. Even with clients who don't mention philanthropy up front, sometimes raising the question will open a conversation and will lead to discussions of charitable giving.

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Often, my clients are prioritizing their children over philanthropy, as their concerns are primarily short-term. However, when I ask what they want their money to support once they are gone, this often leads to discussing philanthropy. Would they rather have their distant cousins get their money, or would they rather support a charitable cause? More often than not, they'll say charity.

Similarly, a lot of people want to be philanthropic eventually, but they postpone taking action, for one reason or another. Of course there's no imperative requiring them to give, but if they decided to engage in philanthropy eventually, then I can present some options for advanced lifetime giving.

**CAFA:** Are most of the clients that come to you already considering charitable giving?

**BB:** There's always a mix. I have clients who are generally interested in philanthropy—some of them know how they want to give, while many don't. It's important to them to leave a legacy beyond what they are just leaving to their children. Many of these clients are still trying to figure out what they want that legacy to be, which is great because I can give them some ideas on how to structure their giving.

I never tell clients where they should give, as in who the beneficiary of their gift should be, but I do assist with choosing the right vehicle, setting time horizons and expectations, and how their philanthropy can work best with their overall financial goals. I will, as I mentioned before, often help adjust a client's expectations with their philanthropy especially when they begin setting unrealistic goals for the beneficiary organization.

**CAFA:** Do you think that more and more of your clients are interested in seeing the impact of their gifts?

**BB:** I think that's right. It's obviously hard to generalize, but this is especially true with the younger generation of clients. I think there's a lot more interest in trying to pay attention and even to quantify the impact of their gift. It's tricky because impact is often unquantifiable or takes a long time to assess.

**CAFA:** What are the most common questions you get from donors?

**BB:** The most common preconceptions I need to address have to do with control. As I mentioned earlier, clients generally want to be much more involved than the law allows. They want to retain the ability to adjust "on the fly" to whatever is happening down the road.

Of course, donors can set their parameters upfront but they need to be responsible parameters, conscious of the fact that the world is going to change and the charity needs some flexibility to change with it. At the same time, donors are making the gift and it's perfectly appropriate for them to decide, within reason, how that gift is going to be used. However, when it comes to ongoing control after the gift is made, that's when they often need to learn to let go.

If they want that level of control, then really what they are talking about is setting up their own private foundation. Even then, the control that they have over their private foundation is really somewhat illusory, because those assets are not their own assets. Those assets belong to the public and donors should think of those assets as belonging to the Attorneys General. That's not something clients often want to hear, because they see it as their foundation, with their names on it. Yes, they are controlling the investments, but it's an important message to deliver repeatedly because forgetting that reality is the source of a high percentage of the problems that high net worth families running private foundations have down the road.

**CAFA:** What advice would you give to other advisors in your position on how to work with clients on philanthropic giving?

**BB:** The primary advice that I have is don't force the conversation but don't ignore it either. A lot of my clients really do want to give but their plan has just not crystallized yet. Most of them are concerned with legacy beyond their children but they want to be smart about how they give so it's important to begin discussing philanthropy at an early stage. For my role, it's about ensuring they have access to the proper vehicles for their giving that align with their philanthropic goals.