PHILANTHROPY · THE FOURTH PILLAR

Towards a more global and more professional philanthropy?

Nothing will ever be the same again

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Giving does you good. Despite the crisis, wealthy clients consider philanthropy to be a crucial notion; they favour philanthropic projects that carry a societal meaning. Sensitivity to acts of philanthropy is also reaching the wealthy of the emerging markets. The wealthy show a growing interest in products displaying a sustainable-development bias, to the detriment of ostentatious consumption standards.

Some famous philanthropists are: Baron Taylor, known for his mutualist movement; Richard Wallace, who invented the Wallace fountain to remedy the water-supply problems of Paris; John Davison Rockefeller, with the Rockefeller Foundation intended to promote scientific progress in every country of the world; Albert Kahn, who through his patronage assembled one of the most important photographic collections, entitled The Archives of the Planet; and Andrew Carnegie, an American industrialist of Scottish origin who, at the beginning of the 20th century, gave more than 380 million dollars to various foundations.

The American Bill Gates has decided to devote 95% of his fortune to the fight against disease and illiteracy.

Warren Buffett announced his intention to give some 37 billion dollars, 80% of his fortune, to charitable organisations, shared among five foundations, including the largest, run by his friend Bill Gates. This decision constitutes the largest individual donation ever made in the United States, far surpassing the other philanthropists of history.

Others include Richard Branson, head of Virgin; Ted Turner, founder of CNN; Pierre Omidyar, founder of eBay, who promotes microcredit in Bangladesh; and Bono, singer and leader of the group U2.

In France, several figures deserve mention, in particular for their patronage in favour of contemporary art: Antoine de Galbert, businessman and creator of La Maison Rouge, a foundation promoting the various forms of contemporary creation; Ariane de Rothschild, who manages various foundations; and Alain-Dominique Perrin, founder of the Cartier Foundation for Contemporary Art.

Philanthropy or funds with social impact

Philanthropists are directly committed, and this for the whole of their lives. It is a question of giving; they do not see it at all as an investment; it is a donor's mentality, it is pure charity.

"Steve Forbes: philanthropy and the world of business are two opposite sides of the same coin: making needs match demands. In philanthropy, you tackle society's biggest problems."

"Jay-Z: I have such a good feeling when it's real; I'm not just sitting there writing a cheque." Jay-Z personally manages the "Sean Carter Scholarship Fund".

The main issue is that of the sound management of one's funds, which inspires trust. The donor must know whether they are being used rationally, whether every effort is being made to be as effective as possible in the action, and whether the management is disinterested.

There is also a need for funds with social impact. This is a new asset class in demand from investors. At present these products are not yet regulated. There is also a need to set up an exchange for this type of listing, and for funds approved for their social and sustainable investment. Responsibilities must be regulated, and a social-compliance framework must be put in place.

The private foundation

In Antiquity, the institution of the Foundation was already known. The Foundation without legal personality was provided for in Roman law and was equivalent to a gift encumbered with a charge.

The foundation is a permanent transfer of one or more properties, the result of which constitutes a distinct legal entity with a name, a purpose and an internal organisation for the realisation of that transfer for a specific aim, which may be the sole support of the beneficiaries.

There are different types of foundations: the family foundation, the ecclesiastical foundation, the mixed family foundation, the charitable foundation, the cultural foundation, the nurturing foundation, the commercially active foundation, and the holding-type foundation.

In Belgium, the reform of the 1921 law on non-profit associations (ASBL) led to the introduction of the concept of the private foundation into Belgian law. The main characteristics that distinguish the private foundation from the public-utility foundation (King Baudouin Foundation) are: the acquisition of legal personality by filing documents with the registry of the commercial court; no prior control, subject to the control of a notary; and no limit on the aims pursued. Nevertheless, the foundation must pursue a higher, non-profit objective. It forbids itself its own enrichment as a purpose. The drafting of the statutes must therefore be very clear.

In Liechtenstein, the establishment of a foundation requires no approval from the government, and its purpose is not necessarily to pursue a philanthropic, religious, scientific, artistic or educational aim. The contribution is made without any consideration in return.

In Luxembourg there exists the Fondation de Luxembourg, whose mission is to promote private philanthropic engagement. Its role is to encourage, support and guide donors (natural or legal persons). For structuring, it provides legal and tax expertise and advises on projects. It has a sheltering (umbrella) status.

The introduction of a private foundation is necessary as an alternative for wealthy clients who want to look after their foundation themselves. If we wish to develop the financial centre and attract a top-end clientele, adapting the legislation is a must. For the development of philanthropy in Luxembourg, solutions must be provided for small donations, medium-sized ones and large charitable projects.

The Free Port

Luxembourg, at the heart of Europe, with its economic and social stability, its renowned financial centre, and an attractive VAT and tax regime...

Especially with the arrival of alternative funds on luxury products such as wine, watches or works of art, Luxembourg could, thanks to its ideal geographical position, create a free port on the former American base. New horizons could open up for Luxembourg.

The free port is a space allowing goods that are merely in transit, or that are awaiting release for consumption, to benefit from a suspension of duties and taxes during storage. It offers clients the possibility of storing goods under a free-port regime, whether under customs control or outside customs control.

In Switzerland, the company Ports Francs et Entrepôts de Genève SA is a public limited company of mixed economy. It offers: 140,000 m^2 of gross floor space dedicated to the storage of all types of goods; the rental of a wide range of commercial premises; the storage of goods in general warehouses; the services of professionals in storage, handling, transport and logistics; and facilities adapted to the requirements of a wide range of products.

This particular status of free ports allows storage under customs control, in temporary suspension of duties and taxes and unlimited in time: hence a cash-flow gain.

Advantages for a collector-investor

The purchased object is normally linked with the payment of VAT in the country of the transaction. If the investor buys the work of art in a free port and keeps it in storage there, or has it delivered to another free-port warehouse, he does not have to pay the VAT until the moment he removes the object in his own favour.

As VAT in Europe ranges from 15 to 25%, the investor saves money while keeping his collection protected. Following thefts and the limited supply of large safes for storing collections, the investor favours free-port deposit. Since the inventory is not made public, the values are not visible and remain private property.

In the former ports of Geneva and Zurich, the objects were never subject to an inventory. To this day, the free ports have kept the valuables in a box dedicated to a particular person, without knowing the contents. Currently the two ports are trying to establish an inventory.

Advantages for an antiques or paintings dealer

The dealer does not pay VAT at the time of acquiring the object. He can keep the paintings in the free port and resell them to anyone in the world without his cash flow being impacted by taxes. He can also move the object from one free port to another anywhere in the world (Dubai, Singapore, etc.), all while keeping control over the minimal costs of keeping these valuables secure. Also not to be overlooked is the ease of transport from one continent to another.

Advantages for Luxembourg in setting up such a port

There is no free port in the European Community. The creation of such a port could enhance the financial centre all the more. Sotheby’s and Christie’s could increase their facilities on site and also hold major sales in Luxembourg, which would bring more business to Luxembourg, as well as to transporters and to import and export companies. This would attract large fortunes more strongly and benefit the Luxembourg financial centre. It would also attract European Family Offices to keep their products and activities in Europe rather than in Switzerland.

The project could very well be combined with the project for a logistics park on the WSA military site (the Minister of the Economy and Foreign Trade, Jeannot Krecké, unveiled on 8 November 2007 the main lines of the future development of the Eurohub Luxembourg Sud site).

This would bring economic diversification while fostering the fourth pillar.