

# Charity in times of COVID-19: A guide to more impactful giving

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## Overview

In these unprecedented times, as we all band together to #kitajagakita, it has been heartening to see the willingness of Malaysians to come together to feed the underserved, support local enterprises and generously donate to charities.

If a nation's greatness is measured by how a society takes care of its weakest, Malaysia should be proud of the many COVID-19-shining moments as we continue to battle this pandemic together. We observed the prominence of NGOs and charitable foundations coming forward to bridge the critical gap of resources and the failure of supply chains. We bring you this guide to assist in any charity-related endeavours to ensure effective and impactful giving.

### Individuals: Donate wisely! 3 simple steps

There is nothing like the chaos and uncertainty caused by an unprecedented pandemic to inspire scammers to prowl for easy prey and in our haste to help the needy, we may overlook warning signs.

- **Investigate:** Following the recovery phase of Recovery Movement Control Order ("RMCO"), do resist giving money to the first individual who approaches on the streets asking for donations – ask them to show you their permit from the Royal Malaysian Police to collect donations, before donating. In addition, verify what you read on the internet and certainly, don't click on Instagram/Facebook links to donate, without first going to the website of these charities and doing your own research ensure that they are legitimate.
- **Go With The Familiar:** Unlike many other countries such as the UK, Singapore and Australia, Malaysia does not have a dedicated regulatory body or a statutory register for charities. As a minimum, you should do an online search on the charities, and as far as possible, conduct a name search and obtain a company profile with the Companies Commission of Malaysia. The company profile will show the particulars of the board of trustees and key information. When in doubt, contact the charities directly on their official website and if possible, request for incorporation and tax exemption certificates, constitution / memorandum and articles of association and annual reports to ascertain governance structure. Long-standing charities may provide better comfort as they have had their charitable efforts publicly documented via newspaper/online articles.
- **Get Those Receipts!:** Charities with tax exemption status are able to provide a better sense of legitimacy as tax exemption would only be granted after careful scrutiny by the Inland Revenue Board and continued compliance of conditions.

Under Section 44(6) of the *Income Tax Act 1967*, charities that have obtained tax exemption status are required to issue an official receipt for all monetary donations, including those in cash or via internet banking, cheque, etc. The receipt must include a serial number, name of the charity, details of the donor and the designation of the collector. Always ask a charity if they will be providing you with a receipt for your donation before making any donation – if

they do not provide receipts, think twice.

If you want to initiate your own fund raising efforts amongst your colleagues and network of friends and contacts, do take note that a licence from the Royal Malaysian Police may be required.

## Institutionalised giving by companies or HNW individuals

The world witnessed how the pandemic served to magnify the gap between the have-s and the have-nots. Developed countries which have found it acceptable to run 2 spheres of parallel lives, one for its entitled citizens and another for the “others,” have had to learn the bitter lesson that the virus does not discriminate. Everyone bears a risk of infection and the burden of a locked down-life because excessive capitalism earned profits, often at the expense of tragic living conditions of workers. Wealth distribution must be managed better. The time has surely come for poverty to end.

In recognising the disparity in the living conditions of the developed, developing and under developed countries across the globe, many ultra-high net worth (“HNW”) individuals and families have pledged a significant proportion of their wealth and resources to advance philanthropic causes, diverting a not insubstantial part of the family fortune away from their children’s legacy. This is evident in the number of HNW individuals and families who have committed to The Giving Pledge, a movement of philanthropists who commit to giving the majority of their wealth to philanthropic or charitable causes. Most of the philanthropic causes by the HNW individuals and families are focused on causes that have long-term impact on a global scale such as providing the essential medical needs, promoting education as well as eradicating diseases, hunger and poverty in the most vulnerable nations. Amongst the most visible of these charities, the Bill & Melinda Gates Foundation, which counts billionaires Warren Buffet and Jeff Bezos as contributors as well as the Chan Zuckerberg Initiative. Whether directly or otherwise, this seems to be a concerted response to the Noble Peace Prize winner, Professor Mohammed Yunus’s clarion call. He had repeatedly expressed concerns of the serious danger of excessive concentration of wealth and stressed the need for equitable re-distribution. He once remarked that despite the immense capacity of the human brain, we have only ever used it for self-enrichment, rather than to solve real human problems- and how tragic this was.

## 3 common ways to set up a charity in Malaysia

If you are looking to start fundraising for a cause close to your heart or if you are looking to allocate your available funds in a more structured manner for the purpose you have in mind, do consider the following before you decide on the charity set-up most suitable to you.

### Private Charitable Trusts

Why Choose This Vehicle?

- A trust arrangement where the charity founders entrust other family members or trusted persons (i.e. trustees) to implement certain specified charitable purpose
- Governed by a private trust deed which sets out, among others, the purpose of the charity and the trustees’ obligations in furthering such purpose
- Control over the charity usually remains with the charity founders / family members
- Not required to register trust deed
- This vehicle assumes an allocated endowment and would not be seeking to secure any public donations
- Once the purpose has been implemented and the funds exhausted, the trust would come to an end

- Any additional funds would presumably be by way of further allocation by the founders
- Trusts are not a separate legal entity

#### Who Is It For?

- Common for specific purposes which benefit the family/ specific groups of beneficiaries for example to address the needs of minors or special children; education of grandchildren.
- Commonly used by high net worth families and individuals to allocate funds for certain specific purposes for example to continue with certain legacy charities or to continue support for causes which founders have particular interest in, such as supporting cancer research, maintenance of hospitals or museums.
- Can be used for family wealth preservation and succession-family trusts are designed to protect assets and benefit family beyond lifetime of founder.

### Trustee (Incorporation) Act 1952

#### Why Choose This Vehicle?

- Similar to private charitable trust, but requires approval from the Prime Minister's Department
- Trustee(s) act as a body corporate (legal entity) upon issuance of certificate of incorporation from the Prime Minister's Department
- Eligible for tax exemption
- Trustee(s) as a body corporate will manage the funds
- Control and management over the charity is by the collective board of trustees
- A trustee incorporated is a separate legal entity. Notwithstanding that, all trustees are accountable for such property that shall come into their hands and are answerable for their own acts, receipts, neglects and defaults

#### Who Is It For?

- Common for charities where its collective founders and members have a common cause and wish to have a formal and institutionalised management of the funds.
- There must be a viable and sustainable plan for the charity to be eligible.

### Company Limited By Guarantee ("CLBG")

#### Why Choose This Vehicle?

- A public company limited by guarantee (legal entity) incorporated under the *Companies Act 2016* where the liability of its members are limited to such amount as the members undertake to contribute in the event of it being wound up
- Required to register with the Companies Commission of Malaysia
- Required to comply with the obligations under the *Companies Act 2016*
- Required to obtain a total of RM1 million pledge by potential donors within 6 months after establishment if the

proposed CLBG would like to omit the word 'Berhad' or 'Bhd' from its name.

- Estimate 6 to 9 months to get it up and running
- Eligible for tax exemption
- Public donation/fundraising allowed with prior approval of the Minister in the Ministry of Domestic, Trade and Consumer Affairs
- More stringent requirements to be adhered to than private charitable trusts and trustee incorporated
- It is a separate legal entity where the liability of its members / trustee are limited

Who Is It For?

- Common for charity founders who have long-term objectives and wish to solicit public donations.
- The vehicle provides prima facie credibility and legitimacy.

## Supporting charities as a form of nation building

Charities not only require funding but more often than not, are in need of contributions in kind for example board participation and professional management. An excellent board of trustees supported by a team of professionals can elevate the charity's potential exponentially. A good governance structure can greatly improve the perception of the charity and in itself would pave a passage of ease for fund-raising efforts. That being said, perceptions would of course be short-lived if not followed through by accountability, responsiveness and a reporting discipline.

Zain & Co has been privileged to have walked the paths of several charitable foundations which have made it their mission to assist in noble nation-building endeavours including Teach for Malaysia and Jane Goodall's Roots & Shoots, from its earliest steps.

Teach for Malaysia ("TFM") was inspired by the success of Teach for America and founded to empower our nation through education. We welcomed two ambitious, visionary young men, Dzameer Dzulkifli and Keeran Sivarajah, the co-founders with open arms and took great pride in assisting them with the provision of early advisory, assistance in fund raising efforts and we continue to proudly walk the TFM path. Today, the Foundation is revolutionising the Malaysian education landscape through their belief that 1 teacher can change a student, then a classroom, then an entire school and finally, the entire education system.

Dr Jane Goodall is best known for her ground breaking work in relation to chimpanzees and being the first to prove the theory of animals experiencing emotions. Through Jane Goodall Institute she aims to protect the 3Ps-primates, people and planet and to inspire young people with a vision of hope. In recent years, Dr Jane Goodall has been on a mission of corporate advocacy. She understands that more than ever, the most significant environmental decision-making occurs in the boardroom and more was needed to raise consciousness of inclusive decision-making to impact a fourth 'P'-profits. We have been privileged to have enabled Dr Jane's voice to be heard amongst more numbers within corporate Malaysia. We continue providing advisory for Roots and Shoots and their strategic collaborations.

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## Your Key Contacts



**Salwah Abdul Shukor**

Senior Partner, Kuala

Lumpur

D +603 2698 6255

[salwah.shukor@zain.com.my](mailto:salwah.shukor@zain.com.my)