

## A BETTER WAY

### Gifts to Charity: Helping Good Causes and Good for Business

**By G. Timothy Leighton, JD, CFP® \***

So you wrapped up your annual income tax filing responsibilities. Do you just want to put away the tax matters until next year?

Some business owners choose to be just as strategic in their year-round tax planning as they do their other business plans. And savvy business owners with a charitable bent also realize they can both do good and be tax-smart about doing good. AND also harness the power of charitable tax rules to achieve other tax and wealth transfer goals, including succession planning. There are better ways to decide between personal and business assets in making charitable gifts.

Business owners get to decide which pocket to use in making charitable gifts. Depending on how the business is structured, there are pros and cons as to which checkbook to use. Owners, usually with their professional advisors, should evaluate the relative benefits of personal compared to business gifts. The starting point typically is whether the owner or the entity is in a higher tax bracket. Other considerations include whether the total giving during the year exceeds thresholds that may require in-year limitations with excess carryover, and the nature of the asset being donated, since some highly appreciated assets may yield bigger tax benefits as outright gifts rather than liquidations followed by cash giving out of proceeds.

Sometimes it even makes sense to gift fractional ownership interests in the enterprise itself, particularly if the entity is able and willing to buy back those interests by tapping cash reserves. The donor typically gets to deduct the fair market value of the gift on the date of giving. However, the cost to the donor is usually the donor's initial acquisition price or other basis calculation.

Donors can also coordinate gifts between charities and their relatives. When a donor's child or other beneficiary buys stock back from a charity at fair market value, the family has avoided a gift tax for the donor and achieved a step-up in basis for the child. There might even be an agreement between the child and the charity for that purchase to occur at a particular date in the future, such as when the donor has died. Then the child could use life insurance proceeds from the parent's passing to fund that purchase.

There are many charitable strategies available to business owners who anticipate wrapping up their involvement and desiring liquidity. Two of these deal with ESOPs and liquidation. Some business owners who have decided not to transfer enterprises to relatives often sell to their employees. A common vehicle for that result is an Employee Stock Ownership Plan, called ESOP. There are significant rules within the Internal Revenue Code for this process, distinct from the charitable tax rules. These plans work particularly well when the company and/or its retirement programs have substantial cash reserves, although other circumstances work as well. And when owners are contemplating outright liquidations of the enterprise, they can also coordinate with charities to achieve multiple objectives including

current income tax deductions, avoidance of capital gains taxation for both the owners and the company, and meaningful support for the charities of the owners' choice.

By embracing tax-smart strategies, business owners can leverage their efforts at doing good through charity that yield greater tax benefits than simple, outright gifts. In most of these circumstances, the result should be "win-win-win-win" - where the winners include charity, the donor, the donor's family, AND government (although the tax deduction seems like a loss to the government, in these times when governments and budgets are so stretched, it is still a win for the government because the private sector is addressing an important public need).

Strategies integrating charitable and business succession plans should involve a partnership among the business owner, leaders of charities, and their professional advisors.

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