

Lessons in Charitable LLCs: Is It Really A Sea Change?

By Charles Lowenhaupt

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The so-called “charitable” LLC has been getting some good press lately.

A month ago, wealthmanagement.com ran a story entitled, “A Sea Change in High-Net-Worth Philanthropy?” In December, [The New York Times](http://TheNewYorkTimes.com) reported that Mark Zuckerberg and his wife, Pricilla, created an LLC to help give away 99% of their wealth.

In both instances, the media pointed out that this legal structure is gaining favor among those with significant wealth – billionaires and deca-millionaires.

So what’s all the fuss about? I’m not certain, actually.

It’s All About Control

To be sure, the LLC has clear merits for those who value control over all else. An LLC leaves the donor with maximum flexibility, particularly compared to charitable foundations, one of the most common structures used by wealth creators for philanthropy.

With an LLC, wealth creators can contribute to any organization they want. In many instances, the wealth creator will realize tax benefits through the LLC if the organization receiving funds is a qualified charity. In other instances, there will be no tax benefits, even if the donor believes there is a societal benefit. For example, an LLC that contributes to a political candidate will realize no tax benefits, even if the donor thinks the world would be a better place if that individual was elected.

Another appealing aspect of LLCs is if the LLC is dissolved, its capital can go back to the donor. If a charitable foundation is terminated, its assets must go to another charity. LLCs also generally don’t have the same public disclosure requirements as charitable foundations.

By comparison, charitable foundations give donors far well control, but they do help the donor realize tax benefits. For those immediate tax benefits, however, the donor may find that minimum amounts must go to charity each year. There must be public disclosure of gifts, and there are many limitations imposed by the excise tax scheme. The donor may even find the tax benefits limited if the amounts contributed to the charity are too large.

By using the LLC, the donor can secure the tax benefits as he or she chooses over time and forgo the tax benefits as they see it. That control provides flexibility.

What's The Real Goal?

Many people think that tax benefits are the major motivator for philanthropy.

In fact, tax benefits may be the ultimate motivator for smaller philanthropic gifts, but significant philanthropic initiatives are frequently done for more than tax savings.

Many of the robber barons capitalists gave their money before there were tax benefits. They wanted to have a significant impact through philanthropy to transform their family names and make their legacy synonymous with social benefit. Many modern philanthropists do the same and give well beyond what they can deduct for income tax purposes.

The real question is how a wealth holder makes his or her wealth do what it is for. If wealth is to ensure that everyone can be all he or she can be, wealth needs to make the world a better place for the wealth holder, his or her children and grandchildren. Making the world a better place, engagement in community, whether it is tax deductible or not, helps build harmony, legacy and peace.

If you read [Mark Zuckerberg's letter](#) to his newborn daughter, you see that he and his wife truly understand the purpose of their wealth. This heartfelt vision is crystal clear: It is to create a better world for their child to inhabit. Zuckerberg is one of our era's experts on community, how to build it and how to make it function. It is no wonder that as Zuckerberg and his wife devote wealth to society, they do it in a way that allows them to keep control and to use the money without government "interference".

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