Giving a business to charity: Stack the odds in your client’s favor

Despite recent reports of a 55% decline in charitable giving by the top 50 U.S. donors in 2022, high profile giving by donors associated with well-known businesses has maintained its place in the limelight, even amid recent market volatility and tenacious concerns about inflation and interest rates. Recent examples abound, including last year’s gift of Patagonia by founder Yvon Chouinard; the well-reported generosity of philanthropists Melinda French Gates and MacKenzie Scott; and the portion of the proceeds, potentially worth $5 billion, from the eventual sale of Subway restaurants that are set to flow to a charitable foundation.

As an advisor to business owners—and collaborating with the community foundation—you can help your clients leverage potential future liquidity events to support the community causes they care most about.

Advance planning is critical. The community foundation team is happy to get involved as early as possible in your discussions with a client about giving part (or all) of a closely-held business to charitable causes. These transactions carry with them layers of complexity, largely around the timing of the charitable gifts in relation to the sale transaction. The best outcomes are achieved through a thoughtful, multi-step process.

Many successful closely-held exit transactions occur only after several years of planning—and most of that planning occurs well before potential buyers are even engaged. This planning period is an important time for your client to consider giving ownership shares of the company to a donor-advised fund at the community foundation, especially knowing that under certain circumstances, the proceeds of the shares held by the donor-advised fund will be immune from capital gains taxes if the business eventually does sell, leaving more money to support the client’s favorite causes.

You might even consider encouraging your client to give shares to a donor-advised fund not all at once, but in increments over time during the business exit planning period (before a buyer is identified). This can help avoid the appearance that the gift is merely a function of the business sale and as such intended to be a tax dodge. If the IRS determines that the stock gifts to charity and the sale of the company are really one and the same event–a “step transaction”--the tax benefits of the charitable deduction could be disallowed.

Another essential part of the process is to secure a proper valuation of the stock by an independent and qualified appraiser for charitable deduction purposes when the ownership is gifted to the donor-advised fund at the community foundation.

Please reach out to the team at the community foundation to discuss how we can help your business owner clients who intend to maximize their future ability to support the charities they love.