

SUCCESSION PLANNING

The Power of Charity in Succession Planning

BY LAURA MALONE

In the discussions that owners of closely-held business have with their trusted advisors, two important and interrelated questions about business succession planning are primary: "What is the best strategy for my exiting the business?" and "How can I get the most financial and tax benefits from that exit?"

In more enlightened discussions, business owners and their advisors go beyond the personal self-interest of taxes and net proceeds and touch upon the owner's sense of significance: "How can I take a portion of these proceeds to make my world a little better? How can I ensure that my life's efforts have made a difference? How can I be certain that my success won't alter my children's values?"

A donor advised fund (DAF) is that point of intersection where the owner's personal and social interests intersect in simple, tax-

smart and meaningful ways. Many owners find the DAF enables them the opportunity to ensure the same sense of enduring significance



MALONE

as a private foundation but without the labor and oversight that private foundations require. Furthermore, they can offer a level of privacy that is not available in the public tax filings of a private foundation.

Business owner benefits

Because DAFs are sponsored by public charities, gifts of closely held stock, real estate, or other assets qualify for the highest benefits available including:

- Immediate and maximum income deduction.
- No capital gains on gifts of long-term appreciated stock or other property.
- No estate taxes.
- Reduced alternative minimum tax or possible avoidance of net investment income tax.
- Tax free growth.

Maintaining control

Savvy business owners understand the difference between ownership and control of a business. When the owner elects to gift non-voting shares or a minority interest in the business, the owner maintains majority control.

Impact on the deal

In most cases, gifting the shares to the DAF and the subsequent transition of those shares to the buyer can take place without slowing the transaction process.

Because the gift must be made before any formal, legally binding agreement to sell or merge the company, most buyers hardly notice the DAF charity's involvement in the transaction.

Professional legal/tax advice is necessary to avoid IRS challenge of these favorable tax benefits. However, thanks to simplicity and cost-effectiveness of DAFs, owners now have a meaningful way to ensure that they will be remembered over successive generations.

Laura J. Malone, CAP, CEPA, is director of gift planning at the **American Endowment Foundation**. Contact her at **877-599-8903** or email at lauramalone@aefonline.org