

## **ADVANCED CHARITABLE PLANNING** **FOR SOCIAL ENTREPRENEURS**

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### **I. THE PROBLEM:**

You have assets AND you have something charitable that you are passionate about. Something that brings you JOY! How do you convert some of the personal assets that you own to charitable assets in the most cost effective and tax efficient way without negatively affecting your family? We can help you take your JOY TO THE WORLD! Would you allow charity to compete for the government's share of your sale or income?

Many times, when extra income or capital gain is received, the amount of income or gain in that year is above what is needed to live and unnecessary taxes are paid reducing the value for future use or for other purposes. Also, the timing may not be under the control of the taxpayer making it difficult to shelter income from tax during these high-income years. This produces a problem similar to the one that Joseph faced in Egypt in the Old Testament of the Bible, *how can you store up in a tax-exempt barn during the times of plenty, resources that can be available to you, your family and charity during the times that might not be so plentiful?* If properly planned, there are some significant benefits for families and charities that can result from restructuring income and/or capital gain transactions that normally cause tax to the family, by using charitable planning techniques. Families utilizing these strategies take advantage of a tax-exempt environment to grow assets, secure a long-term stream of income for retirement, get a more tax efficient way to make charitable gifts and can be more involved in charitable activities.

### **II. PLANNING OBJECTIVES:**

1. Organize your affairs so that you will pay less in taxes now and in the future.
2. Manage assets in your estate so that your assets and intellectual property are protected and can provide the greatest benefit possible to you, your family and the charities that you love.
3. Structure your estate so that during your life and at your death your estate is managed properly, your family is provided for appropriately and things are handled efficiently with the least amount of taxes and government intervention.
4. Organize your financial affairs so that you can give more to charity now and in the future, in the most tax advantaged way, to benefit the causes and organizations that you feel are making a difference in the world today.

5. Allow you and your family members to be more actively involved with the charities and charitable activities that are important to you, either full-time, part-time or spare time.

### III. ASSET OWNERSHIP AND LEGAL ENTITIES:

Ownership is not one right it is really a bundle of rights, but the three most important rights are:

**Title** – if I own something, I can title it in my name

**Control** – if I own something, I can control it

**Benefit** – if I own something, I can benefit from it

Control is the most important right because if you have Control, then you can choose **who** will benefit and **when** they will benefit. Title is the least important right because both taxes and liability generally follow Title.

Legal entities, such as corporations, trusts, limited liability companies and partnerships, are used because they allow a person to split up the three primary rights of ownership and have them held by different people or different entities. If we can place Title in a tax-exempt entity that is separate from our personal affairs and keep control of that entity personally, we can choose who will benefit and when they will benefit, while having the best protection and benefits that the law allows. Here is how entities divide up the ownership rights:

Corporation – Title in name of corporation, Control to Directors, Benefit to Shareholders

Trust – Title in name of Trust, Control to Trustee, Benefit to Trust Beneficiaries

LLC – Title in name of LLC, Control to Managers, Benefit to Members

### 2 KEYS TO SUCCESS:

1. **PROPER ASSET MANAGEMENT:** Use a Charitable friendly structure such as an LLC and/or a Charitable Trust as your entity to hold income producing asset or assets for sale. We can help you establish the best entity for your purposes.
2. **A QUALITY CHARITABLE PARTNERSHIP:** Choose The New Horizons Foundation as your charitable partner for maximum flexibility and opportunity in the future. The Foundation has experience with charitable projects and offers comprehensive trust management services.

### PROPER ASSET MANAGEMENT

#### THE SPLIT INTEREST CHARITY FRIENDLY TRUST OR LLC:

First, you need to decide if you want to benefit just charity or if you would like to include, either currently or in the future, the opportunity for your charity friendly structure to benefit you and/or family members. A charitable friendly structure, such as a charitable remainder trust or a charitable LLC can be used to shelter taxes and provide income for retirement, children or grandchildren's education, an emergency or as an inheritance. The charity friendly LLC generally has a charitable trust and/or Donor Advised Fund at a charity as one of the members. The LLC operating agreement can be written so that it can allow tax benefits to go to members that are not the charitable trust and keeps unrelated business income away from the charitable trust which can cause problems for the trust. For a family that is operating a ministry project, the charitable trust is a win-

win proposition. Since funds can be released to charity as well as paid out as income, the family has two ways to receive income and releasing funds to charity also produces a charitable tax deduction. For this reason, many families choose to have a larger percentage of the LLC owned by the charitable trust or many start owning a larger percentage in the beginning and then make gifts of membership interest at a later date to the charitable trust to allow the asset base to grow for retirement or future use. This allows the family to receive a greater proportion of the initial income for personal use and then defer a greater percentage of future income in the tax-free environment of the charitable trust. An individual can always make gifts of membership interest to the charitable trust, but the charitable trust cannot make gifts of membership interest to an individual. If the charitable trust owns 50% of the membership interest, then 50% of the income received by the LLC will be exempt from tax because the charitable trust is a tax-exempt entity. This allows the family to invest 50% of what is received by the LLC in a tax-free environment for future benefit. The manager or managing member of the LLC determines when assets are distributed to members from the LLC, so the manager, can maintain control over how much and when income is received by members. If your regular income is sufficient for your lifestyle, then you may want to have all of the LLC interest owned by the charitable trust and reserve the right to receive income for later. A family may set up more than one LLC and designate different assets to different LLCs and then have different membership interest allocations in the different LLCs but still utilize the same charitable trust.

#### **THE ULTIMATE CHARITABLE TRUST:**

The charitable remainder unitrust is a fairly common entity used for charitable planning, but it is also a highly regulated entity form by the IRS. This is a good thing, because there are few grey areas and so the family will usually want to use an experienced trustee that know what can and cannot be done with the trusts so that he or she is not making new law by being too creative with the use of the trust. The ultimate charitable trust can pay income to you and your spouse, children or grandchildren. This is known as “spraying” and allows the income to be taxed to whomever receives it. This makes it a great instrument to pay for children’s or grandchildren’s college expenses. For this ability to be available, the trustee of the trust must be someone other than the donor or a member of his immediate family. If the family is working with JOY TO THE WORLD FOUNDATION, the foundation is an experienced trustee that is very responsive the grantor’s desires. The grantor can also release money from the trust to their Donor Advised Fund or charitable project in the Foundation early, producing a current tax deduction for the grantor. The managing member of the LLC determines when and how much income will be available to the trustee to distribute. The trust can last for lifetimes, for a term of years or for a lifetime and/or a term of years. The goal is usually to create a trust with only a 10% current charitable value and a 90% income value which is the lowest charitable value the IRS will allow, so that a greater tax deduction can be obtained if assets are released early to charity. If needs change or if the Grantor would like to convert the ordinary income that is paid out to beneficiaries to capital gain income, this trust can be rolled into a new trust with a new term and additional beneficiaries which will produce capital gain income instead of ordinary income. There is a specific tier system in the IRS code that requires any ordinary income to be paid out before capital gain income so this can be very beneficial planning strategy. Assets held in the trust are outside of the family’s estate and are not subject to creditors providing a level of asset protection for the family.

See the booklet, ***UNLOCKING THE FULL POTENTIAL OF YOUR ASSETS; Creative Uses of the Charitable Remainder Unitrust*** that I have written for more of the benefits of using charitable trusts.

### **A QUALITY CHARITABLE PARTNERSHIP**

Choosing THE NEW HORIZONS FOUNDATION as your charitable partner for your Donor Advised Fund or as the charitable beneficiary of charitable remainder trust or private foundation provides a family with the greatest possible control and benefits. THE NEW HORIZONS FOUNDATION is a public charity that operates charitable program in the US and around the world, so it is the perfect platform for your charitable activities. Since THE NEW HORIZONS FOUNDATION's charitable purpose is to help project managers accomplish their charitable objectives, the family maintains a high level of control over how the funds are used in their Donor Advised Fund or Operating project. Family members can also create charitable projects and be paid by the foundation for the charitable services that they provide to the project. You can name family members as successor project managers for the project in the foundation so that family members can continue to utilize the foundation project after the initial funder's death.

THE NEW HORIZONS FOUNDATION operates Donor Advised Funds, Operating Projects, Program Related Investments, charitable loans and can help with cause advocacy.

THE JOY TO THE WORLD FOUNDATION has been in operation since 2003 and offers comprehensive trust management services. It has helped many clients with this type of estate planning technique and would be happy to help you implement this plan or customize a plan specifically for your situation. We can work with your attorney, recommend an attorney that is knowledgeable about these types of transactions. The Foundation has professional money management but is also happy to work with your financial advisor.

## THE PLAN

