

Charitable Design with Vision: A Case Study in Caritas

04/21/04

By Phil Cubeta

<http://www.gifthub.org>

The handouts below are used to teach tax planners how important it is to learn the client's non-tax goals and objectives. Phil Cubeta does not provide tax, legal or financial advice. His work is limited to the unlicensed practice of the liberal arts. For specific advice, clients must consult their own tax, legal and financial advisors. This Case Study is fictional, but draws on several actual situations.

Executive Summary

How a wonderful woman, “cashed out” of a successful business, and went on to do noble things with her money and her talent; and, how her advisors did OK too.

Contents

- Charitable Design Objectives – Worksheet For Professionals
- Charitable Design Objectives – Worksheet For Client
- Sample Client's Design Objectives
- Outcome

Charitable Design Considerations (For Professionals)

- What are the client's tax goals?
- What are the non-tax goals? Self? Family? Civic?
- How involved or active will the family be? As board members? As “laborers in the vineyard?” Will they do it? Or just fund it?
- What is the most appropriate *timing* for the gift? Now? Later? Living or dead?
 - For tax goals
 - For non-tax goals
- What is the right *amount* of the gift? And pattern of giving? Lump sum? Staged?
 - For tax goals
 - For the achievement of the charitable and family mission?

- What is *the feasibility* of that gift, given the client's other obligations and income needs?

What is the *right gift vehicle*?

- For tax reasons
- For income needs, if any
- For achieving the civic end result?
- Options to consider:
 - Gift annuity
 - Charitable Remainder Trust
 - Charitable Lead Trust
 - Donor advised fund
 - Family Foundation
 - Operating Foundation
 - Supporting Organization
- What is the *right asset*?
 - For Family (Private) Foundations and CLTs: Gifts of closely held entities can run afoul of self-dealing and excess business holdings. Donor must work closely with qualified legal council.
 - For all charitable entities: Gifts of pass-through business entities, like S Corps and Partnerships can create Unrelated Business Taxable Income (UBTI) that is taxed to the charity, when it comes from an actively conducted trade or business (as opposed to passive income from dividends, interest, royalties and rent).
 - For CRTs, S Corps disqualify the S election.

Charitable Design Objectives – Questions for the Client

What are you trying to accomplish?

What is your area of charitable interest?

How will the world be better for this charitable project?

How will you judge the success of the project?

How much money will it take to get the results you want?

How much of your own time and talent will you invest?

Do you want this legacy project to continue after you are gone?

Do your children share your passion?

Do you have other constituents who would put up money?

Will your own “foundation” do the good works, or will it give money for others to do it?

Do you want to get started now or at death?

If at death, is the project feasible? (Who will do it?)

Can you afford to start now?

What pattern of funding is appropriate and feasible?

What have you done to date to make this more than a dream?

What can we do to help you?

Charitable Design Objectives (Sample Case)

Fact Pattern (Summary)

- Single woman age 47.
- No children.
- Net worth of \$8.5 mil.
- \$6 mil is in S Corp of which she owns 100%.
- \$1 mil in an IRA.
- Two houses.
- \$350,000 in cash.
- Income of \$385,000 a year, of which she gives away \$150,000 to her church.

Answers to Charitable Design Questions

What are you trying to accomplish?

Help children learn about their religion via media that will hold their attention.

What is your area of charitable interest?

Christian education

How will the world be better for this charitable project?

Children will learn to love and obey God.

How will you judge the success of the project?

Number of children touched

Sustainability and growth of the program

How much money will it take to get the results you want?

No idea. Maybe \$500,000 up front and \$100,000 a year to create and run a media library and outreach? Just guessing at this point. Need to do more research.

How much of your own time and talent will you invest?

Love to go full time with this ASAP, but am very busy in my business. No succession plan for business yet. Business is a cash cow for charitable gifts.

Do you want this legacy project to continue after you are gone?

Yes, definitely.

Do your children share your passion?

No kids, no spouse.

Do you have other “constituents” who would put up money?

No.

Will your own “foundation” do the good works, or will it give money for others to do it?

Want to be actively involved. Don't know anyone else doing this.

Do you want to get started now or at death?

As soon as possible.

If at death, is the project feasible? (Who will do it?)

I am the only one who can get this going.

What have you done to date to make this more than a dream?

Just dreams, need more info and guidance. Have talked with local priest.

How Can We Help You?

Assess feasibility of my retiring soon, so I can do this full time.

Show me how much I can invest in this project without hurting my lifestyle.

Help me hand off my business, if possible, to employees or outsider.

Help with ideas on charitable structures.

Help me do this tax efficiently so I can make a bigger difference.

Introduce me to others with similar interests.

Refer me to local resources.

Help me figure out how to keep this going when I am gone.

Outcomes

Client is transitioning business to her employees. She has begun staged donations (or as she says, “social investments”) into a private operating foundation to provide Christian media to children in her local community, with outreach to other children through the

web, bookstores, and programs for television. The operating foundation, called, Caritas Network, runs at a loss, funded by the client, but the loss will narrow, and may reach breakeven in a few years, from sales and royalties. If so, the client will plow the money back into more Christian media projects. She has never been happier than she is now, surrounded by the children, and her creative projects. Standing in a doorway, watching her with those children, an advisor can only feel proud to have known her.

For tax, legal and financial advisors there were also fees for planning, key person insurance on the client for her business, and for the foundation, golden handcuffs funded with insurance for her employees, a funded by and sell with her employees, and the legal work that underpins her personal, business and charitable strategies. She is on fire with enthusiasm and has referred other friends to the planning team. Her moral example has inspired others in her circle to move forward with their own plans for a better life in a better world. Her pastor sees the potential, and has referred other parishioners to the planning team as well. The reality is that ideals plus competence differentiate an advisory team in the marketplace, and doing the right thing, for wonderful people, can be a perfectly effective business proposition. (The advisor who does it for love, as well as business, will stand out and attract kindred spirits.)

