

Donating Business Interests: Why a Fund at the Chester County Community Foundation is the Ideal Recipient



If your client base includes business owners, you probably weren't surprised by this observation in a recent *Wall Street Journal* [article](#) about the "stealthy wealthy": "Behind a paycheck, the largest source of income for the 1% highest earners in the U.S. isn't being a partner at an investment bank or launching a one-in-a-million tech startup. It is owning a medium-size regional business."

What's more, the chances are very good that most of your business-owner clients are charitably-inclined. Indeed, more than 90% of small business owners have [supported](#) charities and community activities in the last year.

This means that you and other tax and estate planning advisors ought to have at least a basic level of knowledge about the benefits and mechanics of giving closely-held business interests to charity. When properly executed, this technique can be extremely effective to achieve the client's financial and philanthropic goals.

Here are three very important components of this strategy:

Stop before you use a private foundation.

Some of your business owner clients probably have established a private foundation. But the private foundation is not the ideal recipient of private business interests. Donating closely-held stock to a fund at the Community Foundation is generally more [tax effective](#) than giving it to a private foundation due to several key differences in how the IRS treats these gifts. When your client donates closely-held stock to the Community Foundation, your client can typically deduct the full fair market value of the stock, up to 30% of adjusted gross income and also avoid paying capital gains tax on any appreciation. By contrast, if your client donates the same stock to a private foundation, the deduction is limited to cost basis up to only 20% of AGI, which is a significantly less favorable tax outcome.

Mind the timing.

Encourage a business owner client to start planning for a gift of closely-held stock before putting out feelers to potential acquirers and absolutely before any part of a deal is inked. This is crucial because a gift to charity will avoid substantial unrealized capital gains that have accrued in the business over the years only if the gift and the sale are genuinely separate events, avoiding the [step transaction](#) doctrine. Careful planning will help ensure that the client's fund at the Community Foundation will receive 100 cents on the dollar for the portion of the stock it owns and the deduction won't be [thrown out](#).

Respect the rules for valuation.

Counsel your clients about securing a proper [valuation](#) for charitable deduction purposes at the time the business interest is contributed to the fund at the Community Foundation. Valuation has always been a [critical factor](#) in any type of tax or estate planning strategy. Recently, the additional wrinkle presented by the Supreme Court's decision in [Connelly v. United States](#) makes things even more interesting. The *Connelly* decision impacts the way business interests are valued for estate tax purposes. In *Connelly*, the Supreme Court held that life insurance proceeds indeed ought to be included in the value of a company without offsetting the redemption obligation. This could translate to higher taxable estates for your business owner clients, creating further incentive to leave a portion of closely-held stock to charity. The decision is also a reminder that careful [planning](#) can potentially avoid pitfalls.

As always, please reach out to the Chester County Community Foundation anytime the topic of charitable giving arises in client conversations. We are honored to be your first call on all matters of philanthropy. Most of the time, we can help. If not, we will absolutely point you in the right direction.

For more information, contact the Chester County Community Foundation:

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The team at the Chester County Community Foundation is a resource and sounding board as you serve your philanthropic clients. We understand the charitable side of the equation and are happy to serve as a secondary source as you manage the primary relationship with your clients. This newsletter is provided for informational purposes only. It is not intended as legal, accounting, or financial planning advice.