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## Putting Assets to Work in Philanthropy

Faced with the need to plunge cash on hand back into their businesses, many otherwise philanthropic entrepreneurs can't give as much support as they would like to their favorite charities. Though they could cash in assets to fund a donation, many fear the tax consequences. The good news is that many charities will accept gifts of closely held stock or noncash assets—and can generate significant tax advantages in doing so.

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*Ruben Orduna,  
Vice President of Development,  
Boston Foundation*

“Our ability to take different kind of assets opens donors’ eyes—especially the ones who think they lack the cash to do something,” says Ruben Orduna, vice president of development for the Boston Foundation. His organization has received gifts of stock in private companies in recent years, plus some notable noncash assets. For example, Silicon Valley entrepreneur Tom Bird gave the foundation the domain name farm.com, which he had held for many years.

This domain-name case brings to light a key benefit of these noncash donations when they're made to a private charity: The donor can deduct the current market value—not the cost basis—for tax purposes. In Bird's case, he enjoyed a \$200,000 write-off thanks to farm.com—though his cost basis was \$300.

### THE GIFT OF STOCK

More common than domain names are donations of shares in a privately held company. This provides a tax deduction without taking the capital gains tax hit inherent in a sale. In a sense, you would realize the absence of those shares only once the company is sold or goes public. “You can take a deduction right away for something you have to part with in the future,” says William Schawbel, owner of Schawbel Corp. During the past decade, he has donated 7% of his company stock to charities supporting education and diversity.

Donors of a partnership interest, however, need to be careful. If, for example, the partnership has a negative cost basis because of accumulated debt or the donation includes a nonrecourse loan, the donor may inadvertently trigger more tax with his or her gift. This would happen because the IRS would consider the elimination of that owner's debt as taxable income.

### THE LIQUIDITY TEST

Before a charity will accept gifts of closely held stock, it will want to make two determinations. One is that the donation doesn't include such liabilities as pending litigation. The other is determining a roadmap

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for turning the stock into cash. Some charities have a policy of liquidating an asset ASAP. But they're becoming increasingly amenable to sitting on illiquid assets for a time, depending on circumstances.

One way of donating stock is to give it to a charity with the provision that your company will buy back the stock later. This technique is sometimes used to retire shares and boost an heir's percentage stake without triggering taxes. That has become less common since the IRS instituted a regulation in 2006 requiring independent appraisals for all noncash gifts exceeding \$5,000. The cost of such appraisals can run as high as \$25,000, according to

Lawrence P. Katzenstein, a partner in the St. Louis, Mo., office of Thomson Coburn LLP. So while many charities are open to accepting illiquid gifts as low as \$10,000, the cost of appraisal often renders smaller gifts cost-ineffective.

## **DONATING RESTRICTED STOCK AND STOCK OPTIONS**

Potential donors who receive stakes in public or soon-to-be-public companies also have the option of donating some of their interests. Restricted stock is commonly awarded ahead of an IPO, an outright sale or merger with another corporation. Donating the stock before the event provides significant deductions against the donor's taxable gains.

The rules on stock options are more limiting. For one, you simply can't donate incentive stock options to charity during your lifetime. However, you can make them part of a bequest, which generates a charitable deduction for your estate. Though you can donate nonstatutory options, it's better to simply sell them and donate the cash, since you'll have to pay the tax bill even if a charity accepts the options, exercises them and keeps all the money.

"All these tools we have don't make it cheaper to give to charity than to not give to charity. But it reduces the cost," adds Katzenstein.

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