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## Financial Advisor News

September 2020

### Advising clients on starting a charity



As 2020 marches on with little relief in sight from crises affecting our region, more and more attorneys, accountants, and financial advisors are fielding questions from well-intended clients who are exploring starting

their own nonprofits to help people in need.

Whether a client's passion is health care access, support for the arts, social justice, or any one of hundreds of other worthy causes, it's critical that you provide counsel regarding the pros and cons of forming a brand new nonprofit.

Here are suggested topics to include in your client discussions:

- **For profit, or nonprofit?** Help your client decide whether they really, truly want to start a charity, or whether what they're envisioning would be better structured as a for-profit business. Explain to the client that the rules and tax advantages are different, and so is the way the enterprise is funded. Most charities keep the lights on by securing donations. Businesses keep the lights on by selling goods or services. Either way, you've got to pay employees and run a budget. This seems like common sense and something that any astute client would understand, but sometimes even these basic principles are easy to overlook when enthusiasm for a cause takes over.
- **The state and the Feds.** Explain to the client that if they do decide to start a new charity, just like a business, it still requires setting up a legal entity. Unlike a for-profit business, though, to qualify as a tax-exempt nonprofit, the client will need to apply to the Internal Revenue Service for an exemption under Section 501(c)(3). This exemption is what allows the organization to be free from paying income tax, and it also allows people to donate

to the organization and be eligible for a tax deduction on their own tax returns. Again, these rules seem like Charity 101 material, but never assume your client is in the know.

- **Sell, sell, sell.** Most people who start a charity are passionate about a cause and probably already have programs in place or in mind to help others. The trick, though, is to get out there and share the news about the cause to raise money. Your client needs to be aware that starting a new charity involves "sales," just like a for-profit enterprise, except they most likely will be asking for donations to support their good work instead of selling goods or services like a for-profit business. Certainly nonprofits can generate earned income, but most organizations also should be designed to receive public support in the form of grants and contributions to avoid certain tax rules, such as those prohibiting excess "unrelated business taxable income."
- **Verify the unmet need.** Finally, and perhaps most importantly, encourage your client to research whether there are any existing organizations that are already serving the mission your client intends to fulfill. Indeed, during challenging economic times such as these, best practices suggest that two or more nonprofits combining their efforts is a good way to create efficiencies and ensure more effective service delivery to people in need.

Over the years, DCCF has worked with many donors interested in forming nonprofit organizations. Some amazing nonprofits got their start at DCCF with a donor-advised fund. We have experience working with clients as they navigate the IRS nonprofit determination process, and helping with fundraising development. We also know the nonprofit community and we can quickly help guide your clients to agencies that may already have the same mission and goals your client wishes to support. Please reach out — we are here to help.

# Weeding out taxpayers who abuse conservation tools



As environmental consciousness continues to rise, so does the subject of conservation easements as a tax-savvy charitable giving tool. Perhaps your clients have even explored this vehicle, which involves the client giving up certain rights to the ability to alter a tract of land, with the intent to preserve the land indefinitely. The reason this transaction creates a charitable gift is because the easement typically results in a lower property value because the parcel's usefulness for commercial purposes is eliminated or drastically reduced.

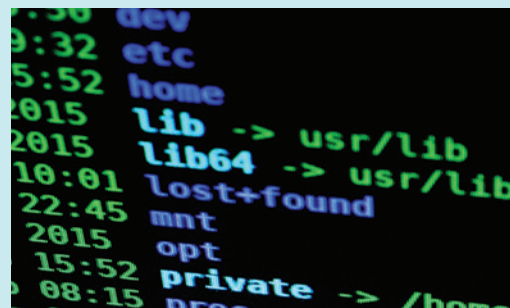
Conservation easements are not new. A resource called the National Conservation Easement Database provides mapping and information related to all conservation easements in the United States, which as of 2018 totaled 130,000 in number and covered nearly 25 million acres of land.

Unfortunately, conservation easements can be the target of abuse by unscrupulous taxpayers seeking to undermine the Internal Revenue Service's strict parameters for deductions and tax benefits generated from the grant of a conservation easement. This abuse has caught the attention of lawmakers. On August 25, 2020, Senate Finance Committee Chairman Chuck Grassley and Ranking Member Ron Wyden released a report on the findings of investigations into a few "bad actors" who, they believe, are circumventing the rules and thereby reducing federal tax revenue to the tune of billions of dollars.

The report is a must-read if you have clients who are involved in conservation easements or are considering using this planning vehicle.

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It is not intended as legal, accounting, or financial planning advice.*

## IRS speaks out on cybersecurity



According to the American Bar Association's 2019 Legal Tech Report, 26% of law firms experienced some type of security breach in 2018. Although fortunately only 3% of the law firms affected reported compromised client data, the risk is real. As virtual work environments have become the norm at many law firms, accounting firms, and financial advisory firms, the issue of cybersecurity has landed squarely on the Internal Revenue Service's radar.

In IR-2020-176, released on August 4, 2020, the IRS strongly recommends that every firm deploy a virtual private network (VPN) to guard against security threats. "As teleworking or working from home continues during the coronavirus," the notice says, "VPNs are critical to protecting and securing internet connections."



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