How To Give Like Mark Zuckerberg

Janet Novack, Forbes Magazine dated December 06, 2010

Just about any valuable asset--from vintage wine to private company stock--can be turned into a charitable kitty and a tax break.

In his mid-30s Georgia lawyer Bertis Downs, the longtime manager of rock band R.E.M., started buying fine red wines, mostly early Bordeaux. Over time his tastes changed. He stopped drinking red wine much, but he still had 30 cases, including some 1982 Mouton Rothschild, in his cellar. "I thought, 'I'm never going to drink this,'" says Downs, now 54. "'I'm never going to have enough parties to use it. It's a wasting asset.'"

Bertis turned 30 cases of vintage red wine into big bucks for

Rather than hassle with liquidating this most illiquid of liquid assets himself, Downs donated it. Bryan Clontz, a charitable middleman, took bids from wine dealers, shipped the cases to Hong Kong and transferred $150,000 into a donor-advised fund at Fidelity Charitable Gift Fund. From there Downs and his wife, Katherine, direct grants to their favorite charities. If you're feeling generous, look at all your assets. These days you can convert everything from real estate to private company stock to hedge fund shares into a charitable kitty. Moreover, depending on what you give, to what kind of charity and how you time your donation, you may get a much more valuable tax break than if you'd just given cash.

Example: Billionaire Facebook founder Mark Zuckerberg is funding his $100 million commitment to Newark, N.J. schools by donating stock to a supporting organization (a rich man's donor-advised fund) at the Silicon Valley Community Foundation, a public charity. If he'd sold $100 million in Facebook shares and donated cash, Zuckerberg would have had $100 million in taxable capital gains (assuming he has a near-zero basis in the stock), plus a $100 million tax deduction--a wash. If he'd given $100 million in stock to a private foundation (meaning one Zuckerberg funds and controls himself), he wouldn't have had any taxable income, but the deduction would have been limited to his basis in the stock--zero. By giving private stock to a public charity, Zuckerberg gets the best of both worlds taxwise. He doesn't recognize any income and he gets a $100 million deduction.

Then there's a more mature entrepreneur, Washington State University plant physiologist Larry Schrader, 69. After his research established that sunburn was damaging 10% of the state's apple crop, Schrader developed Raynox, a carnauba-wax-based apple sunburn protectant.

"The only way I could figure out to commercialize it was to create a startup company," Schrader says. With a partner, he started FruitGard, LLC. Just before selling FruitGard (to the company that now markets Raynox worldwide) in 2008, they donated 29% of its stock to the Vanguard Charitable Endowment Program. The key: The men made their donation before inking the sale, which allowed them to take a full deduction for the stock's value, without recognizing a taxable gain. Schrader and his wife, Elfriede Massier, now make grants to such Forbes 200 charities as the Salvation Army, Habitat for Humanity International and Doctors Without Borders, as well as a local land preservation trust.

Tax savings aren't the only reason folks donate assets these days, notes Clontz. In some cases they're dialing back on consumption. "We're getting contributions where a family is saying, 'We don't need that fourth house anymore,'" he says. If you've got assets to give, here's what you need to know.

Giving public stock is simple

With the S&P 500 up 80% from its 2009 low, many investors have appreciated securities to give away. When you donate publicly traded stock or funds that you've held for a year or more, you can deduct the securities' full market value, without recognizing any income, avoiding not only a 15% federal capital gains tax but state capital gains taxes as high as 11%. Warning: Don't donate shares until you've held them for more than a year, and don't sell them yourself. Have your broker transfer them to a single charity; one of the national donor-advised funds associated with Fidelity, Vanguard, Schwab and other financial services companies; or to a fund at a local community foundation. (You can find one serving your area at www.communityfoundations.net.)

With a donor-advised fund you claim a deduction now but dribble out grants over time. You can use deductions from appreciated stock given to a public charity to offset up to 30% of your adjusted gross income a year (20% if you give public shares to a private foundation). Any deduction you can't use the first year can be carried forward for up to five more years.

Private equity is trickier

To deduct the market value of an appreciated asset other than publicly traded stock, you must give it to a public charity and must have a "qualified appraisal" in hand before filing your 1040. Moreover, if you're about to sell a company, you must donate equity before the deal is set or you'll have to recognize the income on the donated shares.

Schwab Charitable Fund President Kimberly Wright-Violich recounts a phone call a few weeks ago from a Silicon Valley entrepreneur who had just sold his company for about $100 million and wanted to contribute a portion of the company to charity. "Unfortunately his adviser did not get him in early enough," she laments. (He can still take a deduction for contributing proceeds from the sale but can't avoid capital gains tax.)

You can donate part of a company or partnership, pretty much no matter what it owns. Clontz, for example, helped with the donation of a minority interest in the Minnesota Vikings to a Schwab Charitable account. Giving an S Corp is trickier, since the charity itself will have to pay capital gains tax when it sells the company. (Using a special charitable trust for S corp donations, Clontz can reduce that tax to 7.5%.) Alternatively, an S corp can donate appreciated assets and pass through the deductions to its owners' tax returns.

You can pick your fund

The national donor-advised funds all now take odd assets, as do lots of local community foundations and big charities. "We've done this for five or six years, but we didn't promote it until recently," explains Vanguard Charitable Executive Director Benjamin Pierce. If an asset is too illiquid, you may have to give it to Clontz's intermediary charity; after it's liquidated the net proceeds go into your donor-advised fund.

One consideration in selecting a donor-advised fund: how you want your charitable kitty invested. Vanguard Charitable sticks mostly to the Vanguard Group's low-cost funds; Schwab Charitable and Fidelity Charitable allow donors with very large accounts to select their own investment advisers, which can mean higher investment costs for your fund.

Collectibles are special

You can deduct the appreciated value of art and other collectibles only if a public charity (say, a museum) will use the items, not sell them. That's enough for some donors--those who have art that hasn't appreciated, have more charitable deductions than they can use anyway or aren't worried about every last penny of tax savings. Clontz liquidated $3 million in art for a family that wanted to give to Haitian earthquake relief and didn't have spare cash or appreciated securities.

Not just any illiquid asset will do

Generally, depreciated real estate works well, but property with debt does not. "We get calls like, 'We've got a $500,000 house with a $495,000 mortgage that's going to foreclosure.' Those are not gift candidates," declares

Clontz. If you're donating hard-to-sell property, you may be expected to contribute some cash to cover upkeep and taxes until it sells.

Another problem: Appraisals that meet the tax law's strict standards can be pricey for some hard-to-value assets. One donor who wanted to give $500,000 in startup company stock decided to wait until the company went public--after finding the appraisal would run $60,000, Clontz says.

Not all donations are deemed appropriate. Eileen R. Heisman, president of National Philanthropic Trust, which runs private-label donor-advised funds for J.P. Morgan, UBS and other financial firms, says she has turned down a chain of porn shops and stock in a gaming company.

The IRS is watching

Veteran technology financier Sanford Robertson has his own private foundation, but when he and a partner donated a parcel of land at the luxe Kuki'o Club in Hawaii, they gave it (through Clontz) to Schwab Charitable. Robertson, who sits on Schwab Charitable's board, figures a public charity is safer for such an unusual gift. "If we were giving it to my own foundation, there would be all sorts of questions from the IRS," says Robertson. "This is a much cleaner transaction."