

# Philanthropists and Limited Liability Companies

08.27.19 | Linda J. Rosenthal, JD



Philanthropy in the United States is at a crossroads. After many decades of fairly static models of charitable giving, there is considerable innovation and change, particularly among the new generation of young tech billionaires. They are moving to alternative structures including donor-advised funds (DAFs) and limited liability companies (LLCs) to support their philanthropic activities.

While DAFs have been in the spotlight recently, the LLC trend is quietly picking up steam, too – all the more notable because this giving vehicle is entirely outside the nonprofit sphere. A limited liability company is a for-profit entity; a hybrid with certain characteristics of corporations and other characteristics of partnerships. For philanthropists, it offers substantial benefits over either a nonprofit, 501(c)(3), private foundation or a standard business corporation; in particular, it gives young billionaires **more control** and fewer restrictions.

### ***Limited Liability Companies: Another Giving Choice***

Perhaps the most high-profile move away from the traditional model of charitable giving was in December 2015 when Mark Zuckerberg and his wife, Dr. Priscilla Chan, announced their intention to **give away 99 percent of their shares in Facebook** during their lifetimes via the newly formed Chan Zuckerberg Initiative, a limited liability company. This is a noticeable break from Zuckerberg's hero, Bill Gates, who is conducting philanthropic activities with his wife, Melinda, in the more traditional nonprofit format. The LLC structure gives Mr. Zuckerberg and Dr. Chan "**more flexibility** in investing in for-profit social enterprises and also supporting political causes."

At that time of the announcement in 2015, Jacob Harold, the CEO of Candid, formerly known as GuideStar, commented on this move with apparent approval. Limited liability companies create "**optionality**," he said, "so that down the road they could still decide to direct money to nonprofits or they could choose to invest in really cool **solar energy** companies that are doing a lot of good." He added: "It will enable the creative and flexible use of capital over time."

Likewise, Emmett D. Carson – (then) chief executive of the Silicon Valley Community Foundation, and a big fan of the DAF model – expressed admiration, explaining that “[tech philanthropists were turning to a variety of novel giving tools] because they are accustomed to developing or embracing new tools to disrupt the status quo.” Previously, eBay co-founder Pierre Omidyar had set up a hybrid vehicle he named the Omidyar Network that operates both as an LLC and as a nonprofit entity. Similarly, Laurene Powell Jobs, formed the Emerson Collective, an LLC dedicated to supporting issues on “education, immigration and innovation.”

In a statement accompanying the Chan Zuckerberg 2015 announcement, a Facebook spokeswoman said, “As Mark and Priscilla have made clear, they believe the mission is best advanced by a combination of activities, including funding nonprofit organizations, making private investments and participating in policy debates.”

***Limited Liability Corporations: New Entry in Ranks***

Earlier this year, this trend philanthropic-giving innovation was thrust back into the spotlight when another tech billionaire couple – John and Laura Arnold – announced they will move their charitable efforts into a limited liability holding company.

They are young – both in their mid-forties – and have been active in innovative philanthropy for some time via the Arnold Foundation. What’s noteworthy in the Arnolds’ case is that they have created a holding company to oversee their activities. Called Arnold Ventures, this limited liability company will house their private foundation, their donor-advised fund, and a 501(c)(4) political action group called Action Now Initiative.

According to a spokeswoman: “Our mission has always been to maximize opportunity and minimize injustice....But we realized that in order to create change that lasts, we would need to remove barriers between data and decisive action, working swiftly across the policy-change spectrum.”

***Conclusion***

Time will tell whether these new charity models are an overall plus or minus. There are vast fortunes involved, concentrated in the hands of just a tiny slice of the population. A move away from the sunlight – that is, the enforced transparency of the private foundation model – adds to the cautious concerns of more than a few observers in the philanthropy sector, even if a different giving format turns out to have greater benefit for the general public.