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Is a company foundation necessary?

When Starbucks rolled out the Create Jobs for USA program, it was the Starbucks Foundation that provided seed funding to the Opportunity Finance Network. RealNetworks handles all of its charitable giving through the RealNetworks Foundation, and the Safeco Insurance Foundation is one of the largest foundations in the Northwest.

While these companies have elected to form foundations to handle their charitable giving, others engage in direct corporate giving.

So, does a company need a foundation in order to demonstrate its commitment to corporate citizenship?

Microsoft is among some of the Northwest's biggest companies that have chosen to structure their philanthropy through direct corporate giving. Programs such as Microsoft's software donations to nonprofits do not require a company foundation.

A company foundation can provide enhanced visibility for charitable initiatives and can signal that a company is serious about its commitment to philanthropy. If funded on an endowed basis, a company foundation can provide a stable platform for corporate philanthropy that does not rise and fall with company profits. Consistency can be particularly important in lean years, when community organizations may need funding the most.

LEGALLY SPEAKING



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Company foundation boards are generally populated with senior management executives who can ensure that the foundation's charitable agenda will be consistent with the company's interests. Employees may derive a sense of pride from the employer's foundation. And the company may find that philanthropic "asks" are easier to manage with the separation that a company foundation provides.

Much of what a company foundation does can be done just as easily through direct corporate giving, however. Some types of corporate philanthropy are in fact best done through corporate giving, such as sponsoring charity events or performances for which the sponsor receives a table or tickets. Event sponsorship is a poor fit for company foundations because of federal tax limitations on who may benefit from foundation expenditures. Attendance by company executives and their spouses at foundation-sponsored events can raise legal issues.

A company foundation can present other traps for the unwary. Company foundations typically use the company's facilities and staff in performing charitable activities. While a company

foundation may pay the company reasonable compensation for the services of staff who manage the foundation's grantmaking, the tax law prohibits the foundation from paying rent to the company or paying for the use of the company's computers or other personal property.

On the other hand, a company foundation is superior to a direct corporate giving program in certain situations. For a company with a philanthropic vision that extends to charities organized outside the United States, a company foundation is a very effective structure. The company can claim a charitable contribution deduction for gifts to its foundation, and the foundation can then make grants to foreign charities. The company would not be able to deduct any charitable gifts that it makes directly to foreign charities. A company foundation can in some circumstances make scholarship grants to employees and their families or provide emergency relief to employees who are victims of officially declared disasters. Those payments would be treated as taxable compensation if they were made by the company.

For some functions, such as grants to charities where the funder receives no return benefits, either structure works well. Because a company foundation is the preferred structure in some cases and a direct corporate giving program is the best option in others, many

savvy companies use both, often staffed by the same individuals.

Company foundations are separate legal entities, generally nonprofit corporations, that are qualified as Section 501(c)(3) organizations under federal tax law. There are costs involved in creating them and in satisfying ongoing compliance requirements, including keeping board minutes, conducting due diligence on grantees, documenting grants and filing annual information returns with the Internal Revenue Service. Some company foundations minimize the compliance burden by making a single grant to a donor-advised fund at a community foundation or other fund sponsor. The company foundation advises the fund sponsor on the grants to be made and the sponsor handles due diligence and other grantmaking compliance requirements.

Ultimately there is no right answer to the question of whether a company foundation is necessary for a vibrant corporate philanthropy program. The best approach to corporate philanthropy is the one that matches the company's priorities and objectives.

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