

Strategically (and Legally) Using Commercial Enterprises to Achieve Charitable Ends

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Setting the Table

- **INCREASINGLY** there are a wide range of available approaches to achieving social impact goals
 - It is not just charities who care about addressing/solving intractable social problems
 - Entrepreneurs (and investors) are looking at mission as an important and necessary component of their business activities
 - Social entrepreneurs
 - Impact investors
 - Environmental, Social and Governance principles
- **INCREASINGLY** the determination of structure and business and/or tax form includes a consideration of impact and long term social goals
- **INCREASINGLY** Impact entrepreneurs are (often) agnostic to enterprise form/structure norms/expectations
 - Looking for what works best (not what is necessarily expected)
 - Often (and when done properly) it is not necessary to choose just one approach
- **FOCUS:** Structures and strategies to accomplish charitable goals through market-oriented/commercial approaches

What is Impact

- Not all impact is charitable/Charitable impact is a sub-set of impact
 - How to think about it
 - How to measure/assess
 - Typical **charitable** purposes (in this space) include:
 - Providing relief to the poor and distressed
 - Revitalization of distressed communities (combatting community deterioration)
 - Conducting educational activities/promoting education
 - Protecting and preserving the natural environment
 - Supporting scientific research
 - Promotion of health
 - Lessening the burdens of (the U.S.) government
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What is Impact

- And what about these:
 - Entrepreneurship
 - Business incubation/acceleration
 - Economic Development
 - Mentoring
 - Networking
 - Matchmaking
 - Investing
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A Continuum of Potential Structures: Option

- **Tax Exempt/Nonprofit**
 - Public charities (including donor advised fund sponsors and supporting organizations)
 - Private foundations
 - Social welfare organizations
 - **For-Profit (with a social/mission focus)**
 - Taxable nonprofit
 - Traditional taxable corporation
 - The limited liability company
 - Need owner(s) – can't exist in a free standing way
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A Continuum of Potential Structures: Option

- Benefit/social purpose corporation
 - Optics considerations
 - Fiduciary considerations
 - “B Corps” (not a form, but ...)
 - L3Cs
 - Very narrow applicability
 - **Joint Ventures/Collaborations/Public-Private Partnerships**
 - **Hybrid Structures**
 - Operating in tandem
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"The Tapestry of Strategically (and Legally) Using Commercial Enterprises to Achieve Charitable Ends"