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The Gates Foundation (And Divorce!) - Transcript

[Speaker 1]

Welcome to Charity Therapy, a podcast from Birken Law about building better nonprofits. I'm your host, Jess Birken.

Hey, Megan, how are you?

[Speaker 2]

Hey, Jess, I'm good. How's it going?

[Speaker 1]

Oh, pretty good. Spring allergy season is upon us, and I look like I have two swollen eyes all the time.

[Speaker 2]

Pollen is up in your face. Mine too. Don't worry.

So today on this episode, we're going to talk about something I've been seeing in the news a lot, which is the Bill and Melinda Gates divorce. Indeed. Yeah.

[Speaker 1]

Sad.

[Speaker 2]

So we've heard from a couple of people about questions about what this could mean for their foundation. So that's what we're going to talk about today.

So first of all, Jess, can you tell us what a family foundation is?

[Speaker 1]

Oh, yeah, absolutely. So this is kind of an interesting term because generally a family foundation is a foundation that's funded by one family. Big shocker, right?

Shocker. But the term family foundation isn't like a legal term. It's just a descriptive term for a private foundation that's primarily funded by one family.

So a private foundation in general, those are different than regular nonprofits. The nonprofits that most people think about when they hear the word nonprofit, they're thinking public charity, not private foundation. So public charities like your church or your pet rescue, but private foundations and public charities are both nonprofits.

Then they have some similarities. So things that are the same, you know, they're both can be a 501c3. They have tax exemption from the IRS.

They both have a charitable purpose. I can speak today and a mission. They can both use the word foundation in their name.

And so that makes it extra confusing for people.

[Speaker 2]

Tricky, tricky.

[Speaker 1]

What's different is private foundations usually get all or most of their money from like one source in this case, a family. Private foundations usually give their money to other nonprofits. They're usually grant making versus running programs.

Typically, there are exceptions to all of these. And then there are some other differences like, you know, who can be on the board and taxes and things like that, that private foundations have to deal with. But that's basically it in a nutshell.

[Speaker 2]

All right. Well, now that we know what we're dealing with, let's get on to the first question. So first being that this is the Bill and Melinda Gates Foundation, like literally in the name, what is going to happen to the nonprofit in the divorce?

Is it going to be split up or divided like other businesses and properties like during a normal divorce?

[Speaker 1]

The short answer is no, because as if you're a listener, you know, no single person owns a nonprofit. Even if it's a family foundation, there's still a nonprofit and it's still governed by the board and the nonprofit is not owned by shareholders or any private parties. We have stakeholders in a community that we serve.

So, you know, nonprofits, we just we can't be split up in a divorce. That's just not a thing. That's not how it's going to work because the nonprofit isn't an asset of Bill and Melinda Gates.

It's a charity that bears their name, but it's not their stuff, if that makes sense. Sure. That makes total sense.

[Speaker 2]

OK, so then will their divorce affect the work or funding of the foundation, do you think?

[Speaker 1]

Yeah, this is one that I'm, you know, I'm reading The New York Times and all these other articles that are coming out and then everybody's kind of in a tizzy, like, oh, what does this mean? And I don't think it means a whole lot for this foundation in particular, from the perspective of the fact that like both people are on the board. That's definitely it could be problematic, right, for a family foundation, especially because usually those boards are very small, that their funding source is the family and the family members are going through a divorce, which is going to have some degree of vitriolic, you know, bile.

[Speaker 2]

Messy.

[Speaker 1]

Yeah, it could get messy, right? And so they, you know, could have a dip in funding or a delay in funding as a couple goes through a divorce. But in this case, this particular foundation, you know, they have an endowment of \$50 billion to work with, and that's like a core nest egg.

So I don't think the divorce is going to affect that sort of core endowment funding that they have. So then we just have to look at like the interpersonal aspects, which would be more important, right? Like are they just piss and vinegar and like causing problems for staff?

And that you might be concerned, but I know from reading the Times that like Warren Buffett has been a contributor and was recently added to their board of directors as a trustee. So you know, it's possible, and I'm totally speculating, but like it's possible that that was actually on purpose to bring in another person who could be seen as like bringing some stability to the board at that level. Now, of course, I don't know that that's true, but it certainly is not hurting anything when we're thinking about sailing through this divorce and having enough people around to keep the ship sort of sailing smoothly.

Now another thing that could happen with a family foundation and interpersonal problems between the couple that's divorcing could be like one side is really passionate about one thing and the other person is really passionate about something else. And as they're fighting through the divorce, that starts to leak out into the culture of the organization or like be a problem where they're arguing about what should be funded and what shouldn't be funded. And I could definitely see that being an issue for a lot of family foundations that might go through something like this.

But in this case, each member of the couple, they already have separate vehicles. Bill Gates has this Gates Venture Company that he first formed after he stepped down from Microsoft in 2008. And his Gates Ventures focuses on his passion projects, right?

Clean energy, climate energy, education, health. Melinda French Gates already has Pivotal Ventures, which she started in 2015. And that organization works on gender equality and social progress and things that she cares about.

So each of them already has an outlet for sort of pursuing their individual goals, which is probably going to insulate the main foundation body even more, right? So now that interpersonal problem is going to be reduced. So I think they're going to be okay.

You know, I really do.

[Speaker 2]

Yeah. Yeah, definitely. It's just funny to think about, you know, like the reality of interpersonal problems and a divorce is so relatable to so many people, but not so much how it's going to affect your millions and millions of dollars in charitable contributions necessarily.

[Speaker 1]

Yeah, totally. And I mean, the thing here is like, this is like a mega foundation, right? This isn't a little mom and pop family foundation, which is funny to talk about, like people with millions of dollars running, you know, is that a mom and pop anything?

But there are foundations, you know, that are big, and they have staff, and they have executive level staff, and they have investment staff, and they have grant making staff. And this is one of

those foundations. So it's not like Bill and Melinda are at the table and they're like throwing stuff at each other and stuff's not getting done, right?

Like this is a big foundation. They have a lot of money, and they have a lot of people managing all of the program, grant making and investments and all of the things. So I'm sure it's not comfortable, but it's a lot better off than like a smaller family foundation might be going through this.

[Speaker 2]

Right. So really the takeaway I'm getting from you here is that like with all of the structure and the staff and all the other things, you know, that's what can help a nonprofit withstand interpersonal conflicts like this at the board level.

[Speaker 1]

Oh, totally. That is absolutely the takeaway. I mean, if you're set up well and you have a lot of support and you are relying, you're doing things right, right?

Like that's our focus here. We want nonprofits to do things right. Those nonprofit regulations are there to insulate the board from this sort of stuff.

The divorce isn't going to have an impact on this foundation because it's not an asset. There is no private benefit. There is a board that governs and there are rules around how we run the nonprofit to protect it from just this kind of a thing.

So if you have support around you, you have good policies and procedures and you're following the law, you should really be okay. And I think that's that can be like reassuring for nonprofits out there. You can actually withstand a lot if you're doing things right.

Absolutely. Makes total sense. Well, Megan, thank you so much for being my co-pilot today.

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About the Author



Hi, I'm Jess Birken.

I'm the owner of Birken Law Office, I help nonprofits solve problems so they can quit worrying and get back to what matters most – The Mission. I'm not like most attorneys, I actually have an outgoing personality, and – like you – I like to think outside the box. Most of my clients are passionate and have an entrepreneurial spirit. I'm like that too. My goal is to help you crush it. Getting bogged down in the minutia sucks the joy out of the important stuff. My clients want to do the work – not the paperwork.

Let's connect!

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