

## Supporting Foundations: Charitable Contribution Deduction Rules

By Ward S. Pynn

Supporting foundations are enjoying an increase in popularity despite the recent downturn in the economy. These vehicles are popular for three reasons: they provide superior income tax advantages compared to private foundations; they are easier to administer than private foundations; and they provide opportunities to partner with charitable organizations like community foundations and obtain expert advice regarding giving. This article explains the charitable contribution deduction rules that apply to supporting foundations and highlights situations in which they are better income tax planning vehicles than private foundations.

### WHAT IS A SUPPORTING FOUNDATION?

A supporting foundation is a special type of charitable organization that, due to its relationship to a public charity or charities, is classified under the tax laws as a public charity rather than a private foundation. The most common type of supporting foundation is one in which a majority of the officers, directors or trustees of the supporting foundation are appointed or elected by the supported public charity.

### CHARITABLE CONTRIBUTION DEDUCTION RULES

As the chart below illustrates, supporting foundations generate greater federal income tax benefits than private foundations.

### STATE INCOME TAX ADVANTAGE

The state of California also provides superior income tax benefits to supporting foundation donors. Specifically, individuals who contribute

appreciated publicly traded securities to supporting foundations are entitled to deduct the fair market value (FMV) of their gift. If they had contributed those securities to a private foundation, they could deduct only the cost basis of their gift.

One needs to pay attention to California's alternative minimum tax rules. California presently differs from federal tax law on its treatment of unrealized gains on property donated to certain charitable organizations. The federal income tax conformity bills, AB 1122 and SB 657, are awaiting approval by the governor. If both are signed into law, then planners should review the impact those bills have upon their clients' charitable giving.

### TAX PLANNING ILLUSTRATIONS

As a result of their special treatment in the tax laws, supporting foundations can be very effective financial and income tax planning tools. Consider the following goals:

- **Increasing Cash Flow** – Clients with a significant income and substantial amounts of appreciated publicly traded securities can, by transferring some of their securities to a supporting foundation, increase their cash flow by obtaining a larger income tax deduction than they would have received for a gift to a private foundation.
- **Donating Closely Held/S-Corp. Stock** – Owners of closely held companies can obtain a much better income tax deduction by



contributing stock in their businesses to a supporting foundation rather than a private foundation. Gifts of either type of security to a supporting foundation can be deducted at FMV. By contrast, these assets produce a cost basis deduction if contributed to a private foundation.

- **Donating Real Estate** – Clients with real estate are limited to a cost basis deduction for gifts to private foundations. They can potentially deduct the FMV of the property if they contribute it to a supporting foundation.

### CONCLUSION

Tax considerations are not always the primary decision-making criteria when considering a charitable gift, but they are important and should always be discussed with clients. Because of its favored status under the tax laws, a supporting foundation should be presented as an option to a client who is considering establishing a private foundation. A client might find the supporting foundation option much more appealing.

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TYPE OF GIFT	SUPPORTING FOUNDATION	PRIVATE FOUNDATION
Cash	Up to 50% of adjusted gross income	Up to 30% of adjusted gross income
Publicly traded securities producing long-term capital gain if sold	Fair market value (FMV) up to 30% of adjusted gross income	FMV up to 20% of adjusted gross income
Other appreciated property (closely held stock, real estate) producing long-term capital gain if sold	FMV up to 30% of adjusted gross income	Deductible at cost basis

## YOUR LOCAL EXPERT ON SUPPORTING FOUNDATIONS

The East Bay Community Foundation has helped a number of recent donors establish and operate supporting foundations. Many donors contemplating private foundations are excited to learn that they have the option of running their own charitable enterprise in partnership with an established expert in charitable giving. By creating a supporting foundation relationship with the Foundation, donors receive the following benefits:

### experience

We are the East Bay's premier resource on supporting foundations. We know the issues and can walk you and your client through them. If you come to us with questions, we will provide prompt and clear answers.

### simplicity

We will take care of all of the paperwork and filings, which can be numerous. From your client's standpoint, and potentially yours, this can be a seamless turnkey solution. Setting up and maintaining private foundations can be difficult and costly.

### service

We provide a broad array of administrative, financial and program services which can be customized to the needs of your client. In this way your client can spend more time on achieving his or her charitable goals and less time on administrative maintenance.

**For more information about supporting foundations and the advantages they offer, please contact Chris Nicholson at 510/208.0819.**

## THE SUPPORTING FOUNDATION QUIZ

### Is Your Client Suited to a Supporting Foundation?

Your client is a good candidate for a supporting foundation if...

- Your client is considering the establishment of a private foundation or is planning a charitable gift of \$1 million or more.
- Your client wants to receive the most generous tax deductions for the charitable gift under both federal and state law.
- Your client is concerned about the time, expertise and cost associated with establishing and operating a private foundation.
- Your client wants assistance in identifying and evaluating worthwhile programs and organizations to fund in their community and beyond.
- Your client is interested in involving family members in philanthropy.



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