



Oklahoma City

Community
Foundation

the adviser

a newsletter for financial planning professionals
February/March 1998



TAX SEASON TIPS

One simple way to make your clients' financial scenario less taxing



Ever feel like you're hitting a brick wall trying to find new ways to save your clients tax dollars?

Charitable giving may already be a part of many of your clients' financial pictures. But often, tax considerations can help them decide *where* or *what* to give. By including the Community Foundation in your clients' charitable gift planning in the coming year, you can help them realize significant tax savings next year that can stretch their charitable dollar and further enhance the effectiveness of their gifts.

Gifts to the Community Foundation are simple to make and can benefit a variety of purposes. A single gift can be used to support several non-profit organizations or charitable causes. Contributions can be directed into a permanent endowment or a "pass-through" fund.

The tax benefit is realized in

the year of the gift, yet income from the fund can be distributed to specific causes or charities later.

A gift of appreciated stock is one of the best gifts a donor can make in terms of tax savings. With the stock market hitting all-time highs, the value of stocks held in many portfolios has increased significantly. By giving this type of asset, a donor can realize significant tax savings, while maximizing the charitable benefit.

Gifts of long-term capital gain assets are deductible at fair market value, subject to a 30 percent of Adjusted Gross Income ceiling. (Donors to private foundations can claim the same tax break for gifts of publicly-traded securities until July 30, 1998, after which they will be deductible at cost basis. All other forms of appreciated property contributed to a private foundation are deductible at cost basis only.)

In addition, by gifting this type of asset, the capital gains tax is avoided. Donating highly appreciated securities allows all of a donor's capital gains to stay

in this community as charitable dollars — rather than sending 20 percent of the appreciation to Washington.

Giving a gift of appreciated securities is an especially easy way to give to the Community Foundation. We maintain accounts at several brokerage firms, and will open an account anywhere just for your client. Transferring appreciated stock can be as easy as picking up the phone or hitting a key on your computer. See the list below of firms at which we maintain accounts, or call us to find out more about this tax-saving option. ☐

INSIDE

CONSIDER THIS:
Chris Hoyt writes about gifts by way of disclaimers of inheritance

PASS-THROUGH FUND OPTIONS
New Oklahoma City Partners Fund allows for distributions from principal, investment growth

TOP 20 OKLAHOMA FOUNDATIONS

FIRMS AT WHICH THE COMMUNITY FOUNDATION CURRENTLY MAINTAINS ACCOUNTS:

Prudential-Bache
Goldman, Sachs & Co.
Merrill Lynch
Dean Witter Reynolds
Paine-Webber Inc.
Charles Schwab
Capital West
Smith-Barney

Contact Nancy Anthony at 235-5603 for more information.

OKLAHOMA CITY COMMUNITY FOUNDATION, INC.
Combined Statements of Activities

| | Six Months Ended December 31, 1997 | Year Ended June 30, 1997 |
|---|---------------------------------------|-----------------------------|
| REVENUE AND SUPPORT | | |
| Contributions | \$ 5,259,383 | \$ 71,526,901 |
| Investment income | 4,693,732 | 6,508,649 |
| Net investment gains | 14,969,458 | 23,317,615 |
| Other income | 17,106 | 5,252 |
| | <hr/> | <hr/> |
| TOTAL REVENUE AND SUPPORT | 24,939,679 | 101,358,417 |
| EXPENSES AND DISTRIBUTIONS | | |
| Grants and program services | 3,494,585 | 5,400,861 |
| Investment management fees | 234,334 | 361,073 |
| General and administrative | 397,483 | 696,626 |
| Development | 40,500 | 93,000 |
| | <hr/> | <hr/> |
| TOTAL EXPENSES AND DISTRIBUTIONS | 4,166,902 | 6,551,560 |
| INCREASE IN UNRESTRICTED NET ASSETS | 20,772,777 | 94,806,857 |
| UNRESTRICTED NET ASSETS AT BEGINNING OF PERIOD | | |
| As previously reported | 247,211,267 | 152,800,673 |
| Adjustment for change to accrual method of accounting | — | (396,263) |
| | <hr/> | <hr/> |
| Balance at beginning of period, as restated for June 30, 1997 | 247,211,267 | 152,404,410 |
| UNRESTRICTED NET ASSETS AT END OF PERIOD | <u>\$267,984,044</u> | <u>\$247,211,267</u> |

OKLAHOMA CITY COMMUNITY FOUNDATION, INC.
Investment Performance
Pooled Investments

Percentage Returns

| | Six Months Ended December 31, 1997 | Year Ended June 30, 1997 | Three Years Ended June 30, 1997 | Five Years Ended June 30, 1997 |
|------------------------|---------------------------------------|-----------------------------|------------------------------------|-----------------------------------|
| EQUITIES | | | | |
| Community Foundation | 9.74 | 30.71 | 28.83 | 17.85 |
| Standard & Poor's 500 | 10.62 | 34.63 | 28.87 | 19.76 |
| FIXED INCOME | | | | |
| Community Foundation | 5.15 | 7.17 | 7.21 | 6.43 |
| Lehman Int. Gov. Corp. | 4.86 | 7.25 | 7.52 | 6.53 |
| TOTAL FUND | | | | |
| Community Foundation | 7.59 | 19.43 | 18.16 | 12.32 |
| 50% S&P/50% Lehman | 7.73 | 20.49 | 18.07 | 13.16 |

Results given are for all Community Foundation Funds excluding those in separately invested supporting organizations. Special assets are also excluded. Equity performance is compared to the Standard and Poor's 500 Stock Index; fixed income performance is compared to the Lehman Intermediate Governments Corporate Index; total return is compared to an equal weighting of these two.

Gifts to Advised Funds by Way of Children's Disclaimers of Inheritance

by Christopher R. Hoyt



CHRISTOPHER HOYT
IS PROFESSOR OF LAW AT
THE UNIVERSITY OF
MISSOURI – KANSAS CITY
SCHOOL OF LAW. HE
WRITES NUMEROUS
ARTICLES ON CHARITABLE
GIVING AND COMMUNITY
FOUNDATIONS.

A disclaimer is a way for a person who is entitled to inherit property to refuse the property so that it will pass to the next person in line to inherit it. Although estate planners usually recommend disclaimers as a way to transfer property from one family member to another, they can be used to transfer property to a charity, including a community foundation. If properly structured, the estate can claim an estate tax charitable deduction for the property that a charity receives by way of a disclaimer.

The IRS has approved an estate plan that allows a child to disclaim as much property as he chooses from his father's estate and for all of the disclaimed property to be transferred to an advised fund at a community foundation. The terms of the advised fund permit the father's son and daughter-in-law and, eventually, his grandchildren to make grant recommendations. The IRS concluded that such a disclaimer would be a "qualified disclaimer" and that the estate could claim an estate tax charitable deduction for whatever amounts would be contributed to the advised fund. This was the case even though his son would make grant recommendations from the fund and he was a director of the community foundation that administered the advised fund (the son agreed to abstain from voting on his own recommendations at board meetings). However, there could have been serious tax

problems if amounts were going to be disclaimed to a donor-directed fund or a private foundation instead of an advised fund. Private Letter Ruling 9532027 (May 12, 1995).

Disclaimers in General. A disclaimer can be a useful estate planning tool even when no charities are involved. For example, suppose that an individual provides in her will that her entire estate will pass to her sister, but if her sister does not survive her, then the property will pass to her brother. It turns out that upon the testator's death, her sister has no need of cash but her brother does. If the sister were to inherit the property and then give it to her brother, there would be an estate tax imposed on the estate and then a gift tax imposed on the sister's gift. A better solution is for the sister to make a "qualified disclaimer" of the property, in which case the property (less the estate tax due) would pass to the brother and no gift tax would be due.

Section 2518(b) lists the five requirements for a qualified disclaimer:

1. The disclaimer must be an irrevocable and unqualified refusal by a person to accept an interest in the property.
2. The disclaimer must be in writing.
3. The disclaimer must be received no later than nine months after the date on which the transfer creating the interest in the person

"ALTHOUGH ESTATE PLANNERS USUALLY RECOMMEND DISCLAIMERS AS A WAY TO TRANSFER PROPERTY FROM ONE FAMILY MEMBER TO ANOTHER, THEY CAN BE USED TO TRANSFER PROPERTY TO A CHARITY, INCLUDING A COMMUNITY FOUNDATION."

making the disclaimer is made.

4. The person making the disclaimer can not have received the property or any of its benefits, and
5. As a result of the disclaimer, the interest passes "without any direction on the part of the person making the disclaimer" to some other person.

Disclaimers to Charities Provide Estate Tax Charitable Deductions. If the beneficiary that receives property from a qualified disclaimer is a charity, the estate generally can claim an estate tax charitable deduction. See, for example, Private Letter Rulings 9527040 (April 11, 1995) and 9349010 (Sept. 9, 1993) (disclaimers to charitable remainder trusts and to reform defective charitable

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"THERE COULD HAVE BEEN SERIOUS TAX PROBLEMS IF AMOUNTS WERE GOING TO BE DISCLAIMED TO A DONOR-DIRECTED FUND OR A PRIVATE FOUNDATION INSTEAD OF AN ADVISED FUND [AT A COMMUNITY FOUNDATION]."

remainder trusts); 9350032 (Dec. 17, 1993), 9320008 (Feb. 2, 1993) and 9317039 (Feb. 2, 1993) (disclaimers to private foundations). However, a person must be careful with a disclaimer to a private foundation to avoid potentially horrendous tax consequences. If the disclaimer fails, the transfer is made to the child and estate tax is due.

IRS Conclusion. IRS concludes that a child's right to make grant recommendations from an advised fund is permissible, although a child's involvement with a donor-directed fund or a private foundation could pose problems that could prevent a qualified disclaimer. One of the issues specifically addressed in the ruling was whether the child's right to make recommendations to the advised fund meant that the child could redirect the property to someone else, which would prevent favorable treatment as a "qualified disclaimer." Clearly a contribution to a "donor-directed fund" that gave the child the legal right to select grant recipients would prohibit the disclaimer from qualifying as a "qualified disclaimer." This is because a donor-directed fund would permit the child to designate the ultimate charitable beneficiaries, which could violate the requirement that the interest in property passes "without any direction on the part of the person making the disclaimer." *Treas. Reg. Section 25.2518-2(d)(1) & (2);*

25.2518-2(e)(1)(i). In such a case, the estate could not claim an estate tax charitable deduction for amounts deposited in donor-directed funds.

A similar problem would exist for a child's disclaimer to a private foundation of which the child is a director. The child's participation in the private foundation's selection of charitable grant recipients could prevent the disclaimer from being a qualified disclaimer. See *Rev. Rul. 72-552, 1972-2 C.B. 525* for an analogous situation. One way of dealing with this is for the private foundation to amend its bylaws to prohibit the child and the child's spouse from participating in the selection of grant recipients from amounts that are attributable to the disclaimed property. See *Private Letter Rulings 9317039 (Feb. 2, 1993) and 9141017 (July 10, 1991).*

A better solution may be to have a child disclaim property to an advised fund of a community foundation. The IRS concluded in *Private Letter Ruling 9532027 (May 12, 1995)* that the advisory nature of a child's grant recommendations did not pose a problem. The father in the ruling had two sons and each son would make recommendations to an advised fund administered at a different foundation. One son was a director at one foundation, but he agreed to abstain from voting on any of his own grant recommendations. The fund for the other son was apparently at a community

foundation, where the staff investigated whether recommendations were consistent with the foundation's "specific charitable needs." The ruling stated:

"Neither Son 1 or Son 2 will have the ability to direct the redistribution of the disclaimed property from the donor advised fund. The sons may only make advisory recommendations to either [Foundation Board] with respect to proposed distributions of property. Such recommendations may be accepted or rejected by the foundations. Accordingly, any property that is disclaimed by Son 1 or Son 2 that passes to the donor advised funds of [the two foundations] will be considered to pass, "without any direction on the part of the person making the disclaimer", within the meaning of section 2518(b)(4). Accordingly, assuming the other requirements of section 2518 are satisfied at the time the disclaimers are made, the disclaimers will constitute qualified disclaimers under section 2518." ■

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fund management

NEW OKLAHOMA CITY PARTNERS FUND PROVIDES BEST OF BOTH FUND OPTIONS: PRINCIPAL SPENDING AND INVESTMENT GROWTH

New Option

AN OKLAHOMA CITY PARTNERS FUND, THE NEWEST PASS-THROUGH FUND OPTION, ALLOWS A DONOR TO ADVISE DISTRIBUTIONS FROM THE PRINCIPAL OF THE FUND AND RECEIVE INVESTMENT EARNINGS, IN ADDITION TO CREATING AN ENDOWMENT GIFT TO THE FUND FOR OKLAHOMA CITY.

The Community Foundation structure allows for great flexibility in meeting donors' charitable interests.

Though the primary focus of our mission is to build and effectively manage endowment funds for the benefit of the community, the Community Foundation does offer other charitable fund options.

In contrast to an endowment fund, where the principal is preserved and distributions are made from investment growth, a Pass-Through Fund allows the principal of a donor's gift to be distributed. These funds were previously called "Escrow Funds" at the Community Foundation.

A Pass-Through Fund is an ideal tax-planning vehicle, allowing a donor to make a contribution and receive a tax deduction in one year and then advise distributions to charitable organizations at almost any time in the future. (Similar opportunities exist for donors wishing to set up an advised endowment fund, as well. Contact the Community Foundation for details.)

The donor receives the benefit of making a very simple contribution which can be distributed in the future with no need for a trust or foundation to be established and no need for future record-keeping regarding the fund on the donor's part.

Gifts of appreciated securities and other assets can easily be made to a variety of non-profit organizations through a Pass-Through Fund.

The minimum amount to establish a traditional Pass-Through Fund is \$5,000. To simplify administration, these funds do not receive any investment returns and no fees are charged.


Recently, the Community Foundation created another type of Pass-Through Fund, called an Oklahoma City Partners Fund, which allows for principal distributions *and* investment growth.

Donors can use this option to grow a gift for eventual distribution for one or more charitable purposes. This is an ideal option for donors seeking to maximize both the tax advantage of the gift as well as

its eventual charitable impact.

The minimum gift to establish an Oklahoma City Partners Fund is \$25,000. To allow for investment growth, no distributions can be made from the fund for 12 months from the date of the gift.

The fund will receive the same investment return as the endowment pool of the Community Foundation, with 25 percent of that investment growth directed as a permanent endowment "grant" to the Fund for Oklahoma City in the name of the donor's fund.

Thus, the donor has *grown* the original gift available for distribution and, in addition, has created an endowment gift that will *continue* to grow and endure, enabling the donor to become a partner in endowing the future of this community. 

EXAMPLE:

A donor makes a gift of \$50,000 to establish an Oklahoma City Partners Fund. After 12 months, the fund earns \$9,080* in investment growth, minus approximately \$500 (1% of the market value of the fund) to cover administrative costs. \$6,310 is left with the fund and is available for distribution along with the original gift, while \$2,270 is directed as an endowment gift from the fund to the Community Foundation's Fund for Oklahoma City.

* (An investment return of 18.16 percent was used for this example. It is the three year average of the Community Foundation's investment pool. Market conditions are unpredictable; this is an example only.)

For more information about traditional Pass-Through Funds or Oklahoma City Partners Funds, contact Nancy Anthony at 235-5603.

MISSION STATEMENT

The mission of the Oklahoma City Community Foundation, a non-profit public charity, is to serve the charitable needs of the Oklahoma City area through the development and administration of endowment funds with the goal of preserving capital and enhancing its value for the benefit of the Oklahoma City area.

The mission will be fulfilled by pursuit of these goals:

- Provide convenient, efficient, and effective ways through which donors can contribute assets to charitable purposes.
- Encourage donors to create funds which will benefit the community both now and in the future.
- Advocate for the development of endowment funds and provide appropriate means by which permanent endowment funds can be built and wisely managed to provide long-term support.
- Develop the Funds for Oklahoma City, restricted and unrestricted community endowments, which can be used by the Trustees and the community to develop, coordinate, and enhance services and programs which meet the changing needs of the community.

For comments or suggestions on material for The Adviser, contact Laura Lang, editor. For more information about the Community Foundation, contact Nancy Anthony, executive director. Phone: 405/235-5603.

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New Directory of Oklahoma Foundations provides valuable data on state's grantmaking institutions

The sixth edition of the *Directory of Oklahoma Foundations* has recently been published by the Foundation Research Project of the Oklahoma City Community Foundation.

The Directory is the most complete resource on grantmaking foundations, and contains profiles on more than 230 Oklahoma foundations. The information is compiled from the most recent 990PF tax returns filed with the state attorney general.

Each foundation profile lists the foundation's assets, income, board of trustees and information about the grants it makes.

The *Top 20* list below is taken from one of the informative indices in the directory.

Cost of the directory is \$25 for up-front cash payment or \$30 with a purchase order. Send inquiries or orders to: Foundation Research Project, PO Box 1146, Oklahoma City, OK 73101-1146, or call 405/235-5603.

| FOUNDATION NAME | TAX YEAR | ASSETS | LOCATION |
|--|----------|-----------------|--------------|
| DONALD W. REYNOLDS FOUNDATION | 6/30/96 | \$1,036,161,260 | TULSA |
| THE SAMUEL ROBERTS NOBLE FOUNDATION | 10/31/96 | \$797,628,201 | ARDMORE |
| THE J.E. & L.E. MABEE FOUNDATION | 8/31/96 | \$612,708,243 | TULSA |
| THE WILLIAM K. WARREN FOUNDATION | 12/31/96 | \$324,568,995 | TULSA |
| THE OKLAHOMA CITY COMMUNITY FOUNDATION <i>(includes Kirkpatrick Family Affiliated Fund with \$103,071,608 in assets on 6/30/97)</i> | 6/30/97 | \$248,747,075 | OKC |
| PRESBYTERIAN HEALTH FOUNDATION | 9/30/96 | \$142,305,036 | OKC |
| SARKEYS FOUNDATION | 11/30/96 | \$76,870,024 | NORMAN |
| THE HELMERICH FOUNDATION | 9/30/96 | \$62,713,399 | TULSA |
| H.A. & MARY K. CHAPMAN CHARITABLE TRUST | 12/31/96 | \$58,792,774 | TULSA |
| CHARLES & LYNN SCHUSTERMAN FAMILY FUND | 11/30/96 | \$50,428,426 | TULSA |
| JOHN STEELE ZINK FOUNDATION | 10/31/96 | \$41,398,464 | TULSA |
| MERVIN BOVAIRD FOUNDATION | 12/31/96 | \$39,573,153 | TULSA |
| MCCASLAND FOUNDATION | 12/31/95 | \$34,655,681 | DUNCAN |
| ROBERT S. & GRAYCE B. KERR FOUNDATION | 12/31/95 | \$31,981,257 | WYO. & OKLA. |
| THE KERR FOUNDATION | 12/07/97 | \$30,207,300 | OKC |
| PEARL M. & JULIA J. HARMON FOUNDATION | 5/31/96 | \$27,900,196 | TULSA |
| GRACE & FRANKLIN BERNSEN FOUNDATION | 9/30/95 | \$26,515,268 | TULSA |
| EDWARD E. & HELEN T. BARTLETT FOUNDATION | 12/31/96 | \$24,332,688 | TULSA |
| HERMAN G. KAISER FOUNDATION | 6/30/96 | \$23,763,453 | TULSA |
| THE OXLEY FOUNDATION | 6/30/96 | \$20,517,950 | TULSA |



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 Foundation**

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