Oklahoma City
Community Foundation

the adviser

a newsletter for legal and financial advisors
May 2002

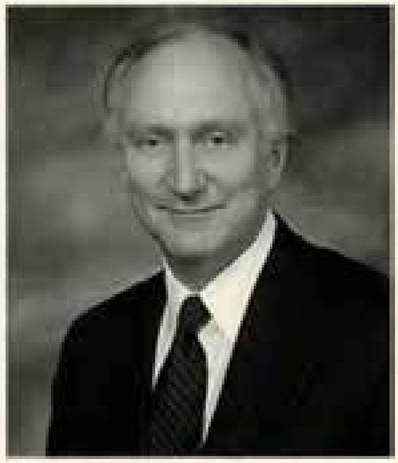
Tax Expert to Address Professional Advisors On Current Issues Facing Exempt Organizations

A former top official of the Internal Revenue Service will share his expertise on tax issues affecting exempt organizations at a seminar Thursday, June 6 sponsored by the Oklahoma City Community Foundation. The Community Foundation is inviting professional advisors to learn from Marcus S. Owens at the workshop, which is scheduled from 1-4 p.m. at Oklahoma City Community College, 7777 S. May, Oklahoma City.

Owens is the former director of the Exempt Organizations Division of the IRS and is a sought-after expert of the design and implementation of federal tax rulings and enforcement programs for exempt organizations. Owens joined the Washington, D.C., firm of Caplin & Drysdale in February 2000. He currently represents a broad range of non-profits, including foundations, charities and trade associations.

Some of the topics the seminar will focus on are: Current Developments for Tax Exempt Organizations and Charitable Giving; Intermediate Sanctions; Unrelated Business Income Tax and Internet–Based Activities of Charities. There is no cost for the session, but pre-registration is required. Space for this session is limited. The course qualifies for three hours of continuing professional education for certified public accountants. Application for three hours of continuing legal education credits is under consideration by the Oklahoma Bar Association. To register, see the form inside on page 5. Complete the form and fax to 405/235-5612 or mail to: **Oklahoma City Community Foundation, P.O. Box 1146, Oklahoma City, OK 73101-1146.** You can also register on the web at **www.occf.org.**

For more information contact **Donna McCampbell** at **405/235-5603**. For more information on the Oklahoma City Community Foundation, visit us at **www.occf.org.**



Marc S. Owens
Attorney, Caplin & Drysdale
Former Director of the Exempt Organizations Division of the Internal Revenue Service

INSIDE

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Oklahoma City Community Foundation, Inc.
Combined Statement of Activities - Unaudited

	Nine Months Ended March 31, 2002	Year Ended June 30, 2001
REVENUE AND SUPPORT		
Contributions	$ 16,485,561	$ 62,423,801
Investment income	8,077,782	12,678,670
Net investment Gains/(Losses)	(7,862,749)	(26,348,960)
Change in value of split-interest agreements	(36,704)	(45,411)
Other income	9,143	35,057
TOTAL REVENUE AND SUPPORT	16,673,033	48,743,157
EXPENSES AND DISTRIBUTIONS		
Grants and program services	21,714,569	30,855,478
Investment management fees	1,128,219	1,088,111
General and administrative	833,046	1,034,604
Development	333,685	415,097
TOTAL EXPENSES AND DISTRIBUTIONS	24,009,519	33,393,290
INCREASE/(DECREASE) IN NET ASSETS	(7,336,486)	15,349,867
NET ASSETS AT BEGINNING OF PERIOD	395,710,162	380,360,295
NET ASSETS AT END OF PERIOD	$388,373,676	$395,710,162

Statement of Financial Accounting Standards No. 136 is not applied to the financial statements on an interim basis. For purposes of comparability, the year end numbers are also stated without those adjustments.

Oklahoma City Community Foundation, Inc.
Investment Performance
Pooled Investments

Percentage Returns

	Nine Months Ended March 31, 2002	Year Ended June 30, 2001	Three Years Ended June 30, 2001	Five Years Ended June 30, 2001
EQUITIES				
Community Foundation	-2.34	-14.45	4.38	13.94
Standard & Poor's 500	- 5.30	-14.83	3.89	14.49
FIXED INCOME				
Community Foundation	4.79	10.89	6.40	7.07
Lehman Int. Gov. Corp.	4.45	11.04	6.42	7.02
TOTAL FUND				
Community Foundation	0.42	-5.65	5.39	10.97
65% S&P/35% Lehman	- 1.89	-5.78	5.16	–
60% S&P/40% Lehman	–	–	–	11.50

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 Government Credit Bond Index; total return is compared to a composite of these two indices, with weighting based upon applicable asset allocation.

When A Charitable Trust Beats A 'Stretch IRA'

by Christopher R. Hoyt, Professor of Law at the University of Missouri

CHRIS HOYT, PROFESSOR OF LAW AT THE UNIVERSITY OF MISSOURI, KANSAS CITY IS A FREQUENT SPEAKER AT LEGAL AND OTHER EDUCATIONAL PROGRAMS. HE IS WIDELY QUOTED IN PUBLICATIONS SUCH AS *THE WALL STREET JOURNAL*, *THE CHRISTIAN SCIENCE MONITOR*, *FORBES* AND *THE WASHINGTON POST*.

For comments or suggestions contact Donna McCampbell (d.mccampbell@occf.org)
Additional information is available at www.occf.org
Phone: 405/235-5603

A fundamental estate planning principle is that after a person's death, distributions from his or her retirement plan account should be deferred to the beneficiaries for as long as possible. The longer that amounts can remain in a tax-sheltered environment, the greater the investment income for the beneficiaries. For example, if a retirement plan distributes $100 to a beneficiary, the beneficiary must pay federal and state income tax (e.g., perhaps $40), leaving only the after-tax amount for the beneficiary to invest ($60). By comparison, if the plan can retain the amount, the entire $100 can be invested by the plan and the beneficiary can have nearly double the investment income.

In order to defer distributions over the longest possible time period, estate planners generally focus all of their attention on the minimum distribution regulations for retirement plans that were issued in April 2002. Their usual objective is to establish a "stretch IRA" upon the account owner's death. If certain conditions are met, payments from a decedent's IRA may be stretched over the life expectancy of the beneficiary — potentially a very long time!

Although the final regulations make it much easier to have a stretch IRA compared to the old rules, there still are some situations where estate planners are frustrated. A significant challenge exists when there is a sequence of beneficiaries (e.g., "to A for life, then to B for life"). This situation appears most often with a surviving spouse (e.g., "payments to spouse for life, remainder to children"). If there are multiple beneficiaries, the stretch IRA regulations require distributions to be made over the life expectancy of the *oldest* beneficiary (e.g., the surviving spouse). The IRA will likely be depleted when the oldest beneficiary dies. How can an IRA make distributions over the lives of the younger beneficiaries? A solution to this challenge comes from a completely different field of law than the stretch IRA regulations: a *charitable remainder unitrust* ("CRUT"). A CRUT can benefit a series of individuals for life and then distribute the assets to a charity when the last beneficiary dies. Like an IRA, a CRUT pays no income tax. Unlike an IRA, the term of a CRUT can last until the last of the multiple beneficiaries dies, which will usually be the *youngest* beneficiary. Consequently, a CRUT will usually defer distributions from a decedent's IRA longer than a stretch IRA can anytime that there is a sequence of beneficiaries. The benefits will usually be greatest if there is a significant age difference among the beneficiaries or if one of the beneficiaries is elderly. Under the right set of facts, the family will be better off. In addition, a charity will benefit.

> "A CRUT CAN BENEFIT A SERIES OF INDIVIDUALS FOR LIFE AND THEN DISTRIBUTE THE ASSETS TO A CHARITY WHEN THE LAST BENEFICIARY DIES."

EXAMPLE: Mr. Husband has a terminal illness. He would like his IRA to provide income to his second wife (age 70) for the rest of her life and then

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provide income to his children from his first marriage (currently ages 42 and 45) for the rest of their lives. If his IRA is payable to a QTIP trust that benefits both his spouse and children, the IRA must be completely distributed by the year his wife attains age 87 (the life expectancy of a 70 year old is 17 years). Reg. Sec. 1.401(a)(9)-5, Q&A 7(a) and 7(c)(3), Ex. (1) and Reg. Sec. 1.401(a)(9)-9, Table A-1. The result? The IRA will likely be empty when the surviving spouse dies, leaving nothing in the IRA for the children. What's worse, the IRA must be empty when the surviving spouse attains age 87, even if the spouse in fact lives to be 100! By comparison, if the IRA is distributed to a CRUT upon his death, the CRUT will provide income to his wife for the rest of her life (which could be well beyond age 87) and then provide income to his children for the rest of their lives. In other words, the CRUT can extend payouts from the *life expectancy* of a 70 year old to the *actual years* lived by a 42 year old or a 45 year old. The CRUT also provides estate tax advantages: none of the assets in the CRUT will be included on the estate tax return of the surviving spouse. Furthermore, Mr. Husband has the personal satisfaction of benefiting his favorite charity.

For more information on how a charitable remainder unitrust might provide greater benefits than a stretch IRA, please see the May 2002 issue of *Trusts and Estates* magazine and the March 2002 issue of *Planned Giving Today,* (at http://pgtoday.com/PGTArticlesselected_articles.htm).

Simple Ways to Make a Gift or Bequest

Chris Hoyt's article on using a Charitable Remainder Trust to maximize the benefit of retirement plan assets points out the importance of proper planning for Individual Retirement Accounts and similar plans. Whether through a CRUT or a direct charitable remainder designation, the choice of a charity is sometimes a problem.

The Oklahoma City Community Foundation provides a simple, flexible and efficient way to make such a gift or bequest. There are three easy steps to the process:

First, consider executing a fund agreement for a personal charitable fund at the Oklahoma City Community Foundation. This fund agreement will describe how the donor wishes for any contribution to be used. The fund agreement can name specific organizations, it can create an advised fund for your client, or his or her family, to suggest annual distributions, or it can restrict contributions to be used for specific purposes. A fund agreement can even establish a scholarship or award fund to be administered in your client's name. Most importantly, the fund agreement can be changed at any time to reflect the wishes of the donor and his or her interests in the community.

Second, make the personal charitable fund the beneficiary of the retirement plan, the recipient of the proceeds of the retirement account or of a trust created by the account. This is done through a legal change in the beneficiary of the retirement plan or through documents such as your client's will or trust.

Third, if the donor's charitable goals or interests change, the only change which needs to be made is in the fund agreement with the Community Foundation. The legal documents will refer to your client's fund, and the fund agreement can be changed to reflect your client's interest. Because the Community Foundation works with a wide range of organizations and is able to implement a donor's charitable goals in so many different ways, a Community Foundation fund provides great simplicity and flexibility for your client. Several organizations can be named, providing an efficient way to make multiple gifts.

For more information on using the Community Foundation to maximize the benefit of retirement plan assets, contact **Donna McCampbell, d.mccampbell@occf.org**, at the Community Foundation office, **405/235-5603**.

Donna McCampbell is a certified public accountant currently working with the Oklahoma City Community Foundation in Fund Management Services. Prior to the Community Foundation, Donna worked as a senior tax manager for KPMG.

How to Start a Scholarship Fund

Establishing a scholarship fund is a common charitable goal for many individuals and organizations. Scholarships are viewed by many as an investment in the future.

The Oklahoma City Community Foundation can administer scholarship and award funds that are established through wills or trusts. Financial advisors working with donors interested in this type of bequest should make their clients aware of the Community Foundation scholarship program as an option for administration of scholarships for a wide range of educational purposes.

For some donors who may have received scholarship assistance in the past themselves, establishing a scholarship fund is an opportunity to help other students in a similar way. The Community Foundation makes it easy for donors and organizations to establish scholarship funds by providing all of the administrative assistance to manage the funds, select the recipients and pay the scholarship award to the appropriate institution. Donors and organizations can be as involved as they are able and can be assured that the scholarship fund will continue to be administered according to their intentions.

Most scholarship funds at the Community Foundation are permanent endowments with the annual earnings used to provide the scholarship award. The minimum needed for a scholarship endowment is $10,000 and the fund can be built up over a period of time, if needed. The development staff of the Community Foundation consults with organizations to develop new gifts if necessary.

Each scholarship fund has a fund agreement through which the donor expresses the purpose of the fund, who should benefit, the size of the award and any criteria which should be used for the selection. The Community Foundation offers a wide range of services to the donor in helping to administer the award. It can establish the criteria, design the scholarship form, promote the scholarship to potential recipients, receive applications, administer the selection process and administer the payment of the scholarship award. The donor or organization can be involved at any stage.

To discuss a scholarship or award fund, please contact **Penny Voss** or **Anna-Faye Rose** at the Community Foundation office, **405/235-5603**. Guidelines for scholarship and award funds are also available at the Oklahoma City Community Foundation Web site, **www.occf.org** under the Scholarship Center tab.

Charities & Federal Tax Law Seminar Registration Form

Thursday, June 6, 2002
1:00-4:00 p.m.
Oklahoma City Community College
7777 S. May
College Union Room 1, Entry 6, Parking Lot D

Oklahoma City Community Foundation

P.O. Box 1146
Oklahoma City, OK
73101-1146
405/235-5603
Fax 405/235-5612

Name (please print)

Firm Name

Address

City State Zip

Phone Number

Fax

E-mail

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 seeking to:

- 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 contact Donna McCampbell (d.mccampbell@occf.org). For information on starting a fund, contact Penny Voss (p.voss@occf.org). Additional information is available at www.occf.org. Phone: 405/235-5603.

IRS Provides Guidance on Charitable Gift Substantiation

The Internal Revenue Service recently provided guidance on the type of documentation required for charitable contributions. In Publication 1771, the IRS outlines when an acknowledgment from a charitable organization is required to substantiate the contribution.

"While most of these substantiation and disclosure rules have been in place for a number of years, this is the first time we have compiled them in an easy-to-use, easy-to-read format," said Steven T. Miller, director of the IRS's exempt organizations division.

Two general rules on substantiation and disclosure apply. First, donors are responsible for obtaining a written acknowledgment from a charity for any single contribution of $250 or more. Also, a charitable organization is required to provide written disclosure to a donor who receives good or services in exchange for a single payment in excess of $75.

A donor cannot claim a tax deduction for any single contribution of $250 or more unless the donor obtains a contemporaneous, written acknowledgment of the contribution from the organization. Note that an organization that does not acknowledge a contribution incurs no penalty, but without a written acknowledgment, the donor cannot claim the deduction.

According to the IRS, a charitable organization can assist donors by offering a statement with: the name of the organization; the amount of cash contribution; description (but not the value) of non-cash contributions, a statement that no goods or services were provided in return for the contribution, if that is the case; a description and good faith estimate of a value of goods or services provided in return for the contribution; and a statement that goods or services that an organization provided in return for the contribution consisted entirely of intangible religious benefits, if that was the case.

For more information, see IRS publication 1771, which is available on the agency's Web site, **www.irs.gov.**

Oklahoma City Community Foundation

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