

THE SUPPORTING FOUNDATION: A Beneficial Way to Partner with the La Crosse Community Foundation

When a donor moves beyond direct gifts to consider a more structured and enduring charitable plan, the donor's advisors are likely to suggest two options: the free-standing private foundation or the donor advised fund within a community foundation. This memorandum introduces a third approach: the supporting organization hereafter referred to as the "Supporting Foundation."

The two traditional approaches to long-term charitable giving have distinct advantages and disadvantages.

- A donor advised fund within a community foundation or other public charity offers the maximum tax benefits available for charitable gifts, very low administrative and investment management fees, the support of highly qualified staff when needed, and no corporate formalities and tax returns. Unlike a private foundation, a donor advised fund pays no excise tax on gross investment income and does not file a separate tax return. The price of these advantages is that donors must accept the right of the community foundation to accept or reject their advice as to grants and grantees. In practice, such advice is welcomed and generally followed when consistent with the foundation's guidelines and objectives.
- A private foundation gives donors greater visibility and control, but at the cost of less generous tax benefits and the transactional costs of maintaining a nonprofit corporation, filing tax returns, and complying with complex private foundation rules.

In many instances, one or the other of these approaches will be a good fit. The donor who prizes autonomy is not likely to be troubled by the practicalities of operating a private foundation, while the donor who seeks maximum tax benefits with maximum ease of administration is likely to see the advantages of establishing a donor advised fund.

In cases involving larger assets, however, neither the donor advised fund nor the private foundation may suit the donor's needs. The donor may want a formal voice in the decisions about how the charitable gift will be used, invested, and administered, not merely the right to give advice. Some donors may want their own separate institutional identity, rather than a fund within a larger institution. Other donors may want a separate legal entity, with its own distinct existence. These considerations make the advised fund less appealing than a private foundation.

At the same time, the donor does not want to settle for the limited tax benefits available for donations to private foundations. Perhaps the donor wants to contribute closely-held stock in a family-owned company and wants to realize a tax deduction based on the fair market value of the stock. Perhaps the donor wants to avoid the self-dealing rules that penalize transactions between a private foundation and its insider's - transactions which would be perfectly proper in a public charity.

There is, however, a third alternative. The technical tax term for this alternative is the *Section 509(a)(3) supporting organization public charity*, but the La Crosse Community Foundation refers to it as the Supporting Foundation.

Supporting Foundation. A Supporting Foundation represents the middle ground between a private foundations and a public charity. Like a private foundation, a Supporting Foundation has its own governing body, its own distinct public identity and its own separate legal existence, which survives the founders.

But, a Supporting Foundation qualifies as a public charity for tax purposes. This means that its donors can claim the more generous tax benefits available to public charity donors, and transactions between the Supporting Foundation and its insiders are measured by fairness rather than by prohibitive “self-dealing” rules. Moreover, the Supporting Foundation qualifies as a public charity even though it need not satisfy any of the public support tests by which most charities gain that privileged status.

The key to these public charity benefits is the relationship between the Supporting Foundation and its *supported charities* – specifically, the relationship between the Supporting Foundation and the La Crosse Community Foundation.

