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AN *Overview...*

Supporting organizations (SO) are tax-exempt entities under the Internal Revenue Code that support one or more charities that qualify as “public” under IRC Section 170. Organizations described in Section 509(a)(3) are known as Supporting Organizations. One person or a family often establishes them as with private foundations. However, SOs do not require all of the strict requirements that are imposed on private foundations. They are most appropriate for the donor who wants to make a current gift while maintaining continuing influence over the distributions to the charity or charities it supports, and where the donor is willing to share control with the charity.

Charitable organizations are drawn to developing relationships with supporting organizations because the relationship qualification requires that future contributions be provided for the charitable organization.

Supporting Organizations have attracted significant donor attention in the charitable giving world because of the less complex rules than private foundations, which permits some continuing influence over distributions and the qualification of donation limits as though made to a public charity.



REQUIREMENTS OF A SUPPORTING *Organization...*

A supporting organization:


- ◆ Must be organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more public charities¹ ;
- ◆ Must be operated, supervised or controlled by or in connection with one or more public charities; and
- ◆ Must not be controlled directly or indirectly by “disqualified persons,” which include the donor, the donor’s family, and entities in which such persons hold a substantial interest.

These are referred to as the organizational test, operational test, relationship test, and a disqualified person control test.

DIFFERING *Types...*

There are three different types of Supporting Organizations and each must be “operated, supervised or controlled by or in connection with” one or more specified public charities that qualify under IRC Section 509(a)(3)(1) or 509(a)(2) (generally, publicly supported charities).

¹ I.R.C. §509(a)(3)(A)



A *Type I* supporting organization is operated, supervised, or controlled by the publicly supported organization, in a relationship resembling a parent and subsidiary. The supported organization holds a substantial degree of authority over the supporting organization, generally appointing its controlling officers, directors, or trustees.


A *Type II* supporting organization is supervised or controlled in connection with the supported organization, in a relationship resembling that of brother and sister corporations, with the supported and supporting organizations under common control.

A *Type III* supporting organization is not directly supervised or controlled by the supported organization. A Type III SO needs to be “responsive to” and an “integral part of” the supported organization as modified by the Pension Protection Act (PPA) in 2006.² One significant change is that the supported organization must be organized within the United States.

BENEFITS OF SUPPORTING *Organizations...*

Supporting organizations possess many of the attractive qualities associated with private foundations without some of the drawbacks. Supporting organizations provide the donor with a substantial degree of control over the gift, while providing for higher deductibility limits

² Type III SO rules as proposed in the Federal Register, Vol. 74, No. 184 on pp. 48672, *et seq.*, reflecting changes made in the Pension Protection Act of 2006.



than private foundations.³ There are not as many administrative burdens and excise taxes associated with supporting organizations as there are for private foundations.

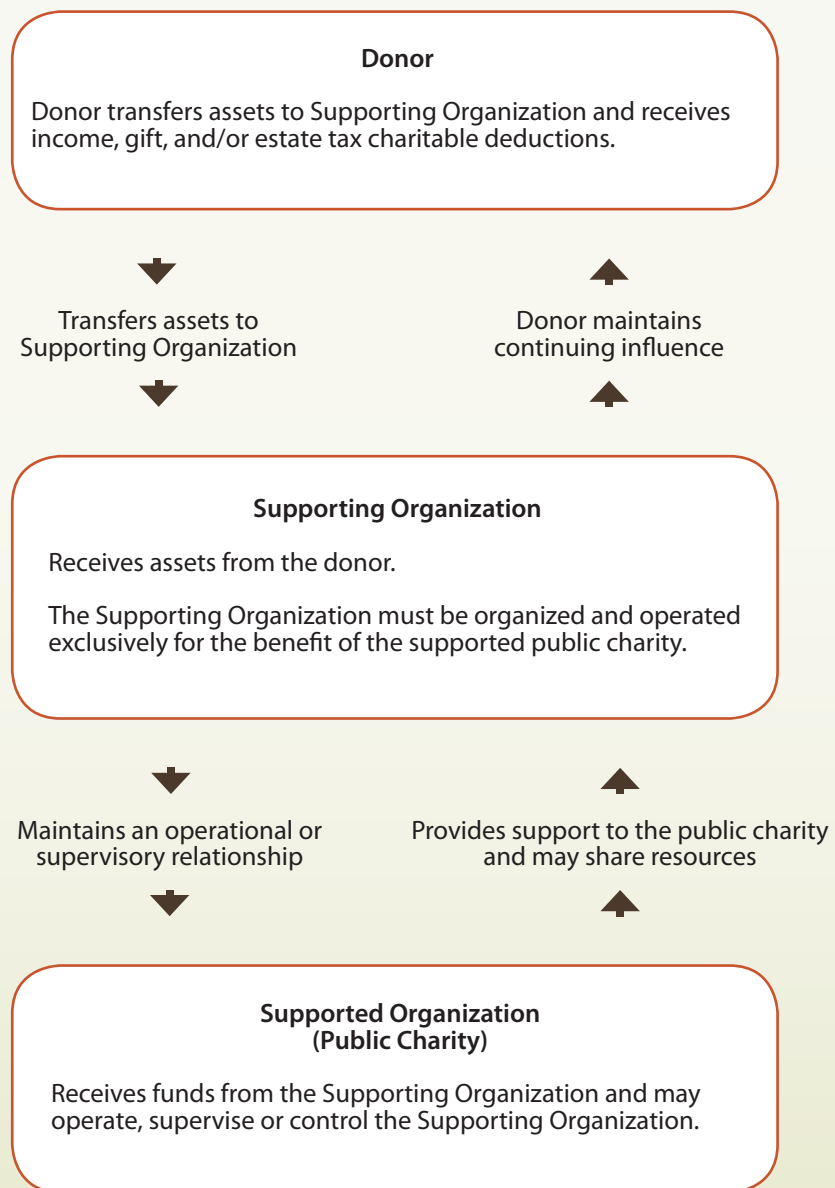
OTHER PLANNING *Opportunities...*


If the donor does not have a desire to be actively involved in the operations of a charitable organization, the donor and his or her advisors should consider a donor advised fund or a restricted endowment gift to the charitable organization. Alternatively, if the donor would prefer more control over and involvement with the charitable organization, a private foundation (PF) should be considered.

For those donors seeking to combine charitable giving strategies, a supporting organization can be named the charitable remainder beneficiary in either a charitable remainder trust or a charitable annuity trust.

³ Contributions of cash to supporting organizations qualify for the full deductibility threshold of 50% of the donor's adjusted gross income (AGI). Contributions of appreciated assets to supporting organizations are deductible at their full fair market value up to 30% of AGI (see IRC Section 170(b)(1)).

Supporting organizations are I.R.C. §501(c)(3) tax-exempt entities that support one or more public charities.





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The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act (“the Act”) was enacted on December 17, 2010. For 2011 and 2012, the Act provides for a \$5 million Federal gift, estate and generation skipping transfer tax exemption amount (indexed for inflation starting in 2012) and a top gift, estate and GST tax rate of 35%. On January 1, 2013, a \$1 million Federal gift, estate and GST exemption amount and a maximum gift, estate and GST tax rate of 55% is scheduled to go into effect. These considerations apply only to the Federal transfer taxes. Any state-level estate or inheritance tax should be evaluated separately. 443230 4/12/13