
PERSONAL TAX PLANNING

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PUBLIC/PRIVATE FOUNDATIONS—ISSUES AND PLANNING OPPORTUNITIES

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Private foundations have historically been viewed as less appealing than public foundations for families wishing to make substantial inter vivos gifts. This article reviews legislative requirements and other factors relevant to the public versus private foundation decision. It suggests that, given changes to tax laws in recent years, a private foundation or a hybrid “public-private” foundation is an appropriate model in many cases. It also considers whether a trust has advantages over the more commonly used non-share capital corporation. Planning opportunities related to donations of private corporation shares are discussed. In addition, requirements to maintain charitable status and potential sanctions are reviewed.

KEYWORDS: FOUNDATIONS ■ PUBLIC ■ PRIVATE ■ CHARITABLE TRUSTS ■ EXCESS BUSINESS HOLDINGS ■ CONTROL

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