Gary Edelstone, a partner in the law firm of Edelstone & Basile and a specialist in complex tax and estate planning law for more than thirty years, understands how to manage the interplay between tax and estate planning for high net worth clients. He spoke recently with CCF about private foundations versus donor advised funds or supporting organizations, when it’s time to convert from one to the other, and tips about giving in 2011 (see page 2).

Q: Why might a client prefer a private foundation to a donor advised fund?

GE: Many clients ask us to form foundations because they want an entity that’s theirs and they don’t want to give up control. Often, their long-term goal is for their children to be involved and for the family to work together for generations.

But private foundations have disadvantages. First, there is a requirement that at least 5 percent of the foundation assets must be distributed for charitable purposes each year. The charitable tax deduction is limited to 20 percent of adjusted gross income. There is a 2 percent excise tax on the income of a private foundation, which sometimes increases to 3 percent. That tax, while it sounds small, can be very significant, particularly if low-basis stock was contributed to the foundation and then sold. There are also compliance costs, including complex tax returns that need to be filed. In addition, private foundations can’t take full tax advantage of certain types of gifts such as closely held stock.

Have you seen situations where a private foundation was not the right choice?

GE: Often, people really miss out because they don’t have professional management in place.

They don’t have someone who can evaluate grants or create a gifting program. Being a successor to a foundation founder is a long-term proposition, and it requires a lot of work. I’ve seen train wrecks in my career, where the benefactor’s hand-picked successors end up making charitable gifts to their own pet causes – causes to which the benefactor might even have disapproved. “Mission drift,” to put it mildly! Mission drift can happen very easily when there isn’t an organization charged with implementing the benefactor’s intentions.

Have you seen situations when someone with a private foundation made a shift to another kind of entity?

GE: Yes. Ernest Lieblich was a client who originally established a private foundation so he could maintain control over major grantmaking. But as he grew older, he needed a long-term solution, so we decided to convert his private foundation to a supporting organization at CCF.

We suggested a supporting organization conversion so that Ernest could still have his own foundation that would maintain a separate identity with separate investment accounts.

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Ernest Lieblich was well known for his love of music and philanthropic spirit, as much as for his acute business acumen. The founder of Food Craft Coffee and Refreshment Services, Mr. Lieblich established The Ernest Lieblich Foundation in 2002 to provide music education to low-income children and teenagers in Los Angeles.

The Lieblich Foundation started as a true private foundation, until it was converted to a supporting organization of CCF, a separate 501(c)(3) charitable organization with its own board that could include family members, business associates and others. Nonprofit organizations that suit the mission of the foundation are vetted by CCF staff, grants are recommended by the Lieblich Foundation board, and CCF handles everything else.

When he passed in 2009, Mr. Lieblich bequeathed a partial interest in his business and partial ownership in a building to his foundation. CCF will liquidate these assets and incorporate the proceeds into his foundation so that his legacy is preserved and realized in the manner he intended, and his philanthropic spirit lives on to help and inspire others.

Gary Edelstone's Tips for Advisors on Giving in 2011

“Much of our planning involves hybrids of charitable giving and transfers of wealth to the next generation. One of the greatest opportunities this year is to use Charitable Lead Trusts (CLTs), since the IRS interest rate is at an all-time low of 1.4 percent. Historically that rate has hovered between 5 and 7 percent.

“A CLT makes an annual payment to charity, typically over the donor’s lifetime, and the balance in the fund goes to the donor’s family members, usually when the donor dies. For tax purposes, the value of the annuity payments going to charity is discounted based on the interest rate in effect at the time of the gift, and that value can be deducted immediately. So when the interest rate is extremely low, there is a double benefit: the client can receive a much higher income tax charitable deduction, and wealth can be passed to family members at a lower (or eliminated) estate and gift tax cost. Often, the charitable deduction will be higher, and the reportable amount projected to go to family members will be lower, than turns out to be the case.

“Moreover, in light of the $5,000,000 gift tax exemption now (possibly temporarily) in effect, a large CLT can be established without gift tax cost.”

A CLT can be particularly beneficial, tax-wise, if the donor or another family member is faced with a health problem, because we can often use the standard mortality tables rather than the actual life expectancy. Moreover, in light of the $5,000,000 gift tax exemption now (possibly temporarily) in effect, a large CLT can be established without gift tax cost.”
Top professional advisors in Los Angeles were among the 450 guests who attended the 2011 Unsung Heroes of Los Angeles Awards on October 12, presented by CCF and co-sponsored by The Eisner Foundation, with media partner KPCC 89.3.

CCF donors Eva Longoria ("Desperate Housewives") and Chandra Wilson ("Grey's Anatomy") joined fellow actor Maulik Pancholy ("30 Rock" and "Whitney") in presenting awards to three L.A. County residents for their extraordinary charity and six nonprofits for their outstanding service to the community.

The evening concluded with a special tribute to U.S. military veterans of combat in Iraq and Afghanistan, local nonprofits serving them and their families, the Iraq Afghanistan Deployment Impact Fund at CCF and the fund’s remarkable founders.

For complete information on this biennial awards program, including bios and videos on the honorees and highlights from the evening, visit calfund.org/unsungheroes.

Imagine a gift where 100 percent helps a person in need at a time when they need it most – and triggers a ripple effect of kindness.

The Pass It Along Fund helps the most vulnerable people and families in our communities. Individual recipients get one-time grants to address a crisis or critical need, and their only requirement is to pass along two acts of kindness.

This remarkable giving model makes an immediate difference. In turn, donors get the satisfaction that their gift truly helps.

We can’t take any credit, though. This fund all started in 2000, when anonymous donors created it and specified the parameters: 100 percent of grants go directly to the assistance of someone in dire need within 72 hours of the request, with little paperwork or bureaucracy.

It’s time to make Pass It Along a community-wide effort. That’s why CCF is matching donations from the public with a $500,000 contribution.

We hope that you will help generate more acts of kindness by sharing the story of this unique fund with your clients and others, or making a contribution today at calfund.org/pia. Any contribution is appreciated.
Estate plans are blueprints for hopes and dreams. Your clients map a vision of the future, and trust in others to see it through. One such visionary donor has left a substantial gift to CCF so that disadvantaged young people in Los Angeles might one day do great things and be able to help others.

The donor, who wished to remain anonymous, had volunteered with nonprofit organizations in Los Angeles for decades, helping people in need to create a better future. The donor loved music, played an instrument and sang in church choirs for years, and admired how athletics can help youth rise above their situation in life.

The road to CCF for the donor was paved by advice from a daughter who suggested the community foundation because of its experience and expertise in connecting donor wishes with the right local partners.

The result is a new five-year CCF initiative, called Preparing Achievers for Tomorrow (PAT), created to improve academic achievement, decision-making skills and self-esteem of youth in South Los Angeles through participation in sports, music and recreation. PAT provides grants to nonprofits for direct services for young people and helps strengthen the ability of nonprofits to deliver services over the long-term.

In keeping with the family’s desire that PAT continue long into the future, CCF invites additional funding from other donors and organizations.

To discuss your clients’ estate planning, contact Carol Bradford, senior counsel and charitable advisor, at cbradford@calfund.org or (213) 452-6266.

Read more about the initiative and participating nonprofits at calfund.org/pat.

GE: CCF has the infrastructure to do an excellent job in administering charitable funds. A supporting organization is something of a hybrid between a donor advised fund and a private foundation, and it was a perfect fit for Ernest. Although the majority of the board members are supplied by CCF, as is legally required, CCF has been very respectful of Ernest’s designated board members.

With the guidance and support of CCF personnel, decisions have been made by consensus and the board has worked together cohesively to honor Ernest’s wishes. CCF has provided grantmaking experts like Leslie Ito, who is an expert in the arts, and has helped the board make all the right decisions.

I know that if Ernest were alive today he would be very happy with the outcome of the board’s work.

How would you describe the process of converting a private foundation into a supporting organization?

GE: It’s actually easy to convert a private foundation into a supporting organization. One simply amends the articles and bylaws of the private foundation and files with the IRS to change its status. Then there’s a five-year look back where the IRS makes sure that the private foundation has operated as a supporting organization, at which time the back excise taxes are refunded.