**8525. What income tax deduction may a taxpayer take for making a charitable donation to an organization classified as a private foundation?**

Most private foundations are family foundations subject to restricted contribution limits. Certain other private foundations (i.e., conduit foundations and private *operating* foundations), which operate much like public charities, are treated as public charities (see Q 8523).[[1]](#footnote-1) A private foundation is a charitable organization other than an organization described in IRC section 509(a)(1) through (a)(4). More specifically, a private foundation is usually a charitable organization that is 1) funded from a limited group such as an individual, family or company; 2) its expenses tend to be paid from investment earnings rather than regular charitable contributions; and 3) under certain circumstances it makes contributions to other charitable organizations. The term “private foundations” as used under this heading refers to standard private (e.g., family) foundations.

The amount of the deduction for a contribution of appreciated property (tangible or intangible) contributed *to* or *for the use of* private foundations generally is limited to the donor’s adjusted basis. However, certain gifts of qualified appreciated stock made to a private foundation are deductible at their full fair market value.[[2]](#footnote-2)

Qualified appreciated stock is generally publicly traded stock which, if sold on the date of contribution at its fair market value, would result in a long-term capital gain.[[3]](#footnote-3) Such a contribution will not constitute qualified appreciated stock to the extent that it exceeds 10 percent of the value of all outstanding stock of the corporation. Family attribution rules apply in reaching the 10 percent level.[[4]](#footnote-4) The IRS has determined that shares in a mutual fund can constitute qualified appreciated stock.[[5]](#footnote-5)

**Planning Point:** Donor Advised Funds are an increasingly popular way for a donor to obtain more choice and control over how and when taxation occurs. A donor can wait to make a charitable contribution until the end of the calendar year, after the donor knows how much the donor wants (and is able) to deduct, make a gift to a public charity, and then decide the recipients of the donation at a future date.

**Planning Point**: From a tax perspective, it is not advisable to donate an investment with a taxable loss. This is because the transfer of loss property to a charity does not allow for the taxpayer to claim the loss. In this situation, the taxpayer should consider selling the investment in order to claim a taxable loss; and, then make a deductible charitable contribution of the proceeds from the sale.

1. . See IRC Secs. 170(b)(1)(E), 170(b)(1)(A)(vii). [↑](#footnote-ref-1)
2. . IRC Sec. 170(e)(5). [↑](#footnote-ref-2)
3. . IRC Sec. 170(e)(5). [↑](#footnote-ref-3)
4. . IRC Sec. 170(e)(5)(C). [↑](#footnote-ref-4)
5. . Let. Rul. 199925029. See also Let. Rul. 200322005 (ADRs are qualified appreciated stock). Instruction for Form 8283 (Rev. December 2013). [↑](#footnote-ref-5)