

the donor's death or other governing date under the ordinary principles of estate tax law. If only a portion of the controlled property is disposed of or devoted to active charitable use, the donor would receive a deduction *pro tanto*.

Since they are designed to deal with different problems, the rule suggested here differs in a number of respects from the rule recommended in section C of this Part. The rule of section C would become operative where a foundation owns, in its own right, a 20 percent or larger interest in a business; the rule of the present section would be applicable even where the foundation's own interest in the business is less than 20 percent, if the total interests of the foundation, donor, and related parties constitute control. The two rules would overlap where a foundation has a 20 percent or greater interest in the business and a donor and related parties also have interests in it which, when combined with the foundation's ownership, amount to control. The rules would, however, have different consequences: the section C rule would require the foundation to reduce its ownership below 20 percent within a specified period of time; the section D rule would simply defer the donor's deduction for the contribution of an interest in the business until the foundation disposes of the contributed interest or donor control of the business terminates. The section C provision would apply both to the existing holdings of foundations and to those acquired in the future. The section D rule would apply only to contributions made to foundations in the future.

*(4) Possible restriction of this solution*

A possible modification of the proposal of the present section would postpone the donor's deduction only where, after the contribution, he and related parties control the business or other underlying property and, in addition, exercise substantial influence upon the foundation to which the contribution was made. Such a rule would permit an immediate deduction to a donor who transfers controlled property to a private foundation if he and related parties do not constitute more than a specified percentage of the foundation's governing body. Since many of the most troublesome problems in the family corporation-controlled property area are traceable to the conflicts of interests which result where the donor both dominates the corporation and has significant influence upon foundation decisions, this rule would confine the corrective measure to situations in which both of those elements are present.

The Treasury Department has analyzed this variation of the proposal with considerable care. Its examination of the matter has indicated that the modification would have the advantage of permitting immediate deductions in a limited number of situations in which gifts of controlled property to private foundations produce clear charitable benefits and appear to be accompanied by no concomitant abuses. On the other hand, two rather serious difficulties are inherent in the modification.

First, the task of achieving a satisfactory definition of "substantial donor influence" presents formidable problems. In proposing the imposition of a 25-year limit upon substantial donor influence over private foundations, Part II-F of this report suggests that a foundation be considered subject to such influence where a donor, members of his family, those with whom he has a direct or indirect employment