

The University of Texas Law School  
2017 Nonprofit Organizations Institute  
A View of the Sector

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## Current Regulatory Issues

1. Donor – Advised Funds
2. Section 506 – Notification of 501(c)(4) status
3. Priority Guidance
  - Foreign Grantmaking  
(Rev. Proc. 92-94)
  - Co-Investments by private foundations and related parties

## Donor – Advised Funds

- Statutory Provisions Enacted in 2006
  - Define donor-advised funds
  - Impose restrictions on certain types of distributions
  - Impose restrictions on benefits to donors/related parties
  - Expand application of intermediate sanctions and excess holding rules to donor-advised funds

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## Donor – Advised Funds (cont'd)

- Priority Issues for Guidance:
  - pledges
  - bifurcation
  - definitional issues

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## Donor – Advised Funds (cont'd)

- Treasury/IRS Concerns
  - use of DAFs to avoid “tipping”
  - use of donor-advised funds by private foundations to satisfy the 5% distribution requirement

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## Temporary Section 506 Regulations

- On July 25, 2016, the Treasury Department issued temporary regulations (the “Temporary Regulations”) pursuant to the Protecting Americans from Tax Hikes (PATH) Act of 2015, requiring organizations to notify the IRS of their intent to operate under §501(c)(4). These temporary regulations follow interim guidance (Notice 2016-09) issued by the IRS on February 8, 2016.
- The Temporary Regulations require notification to be submitted on a new electronic form, Form 8976 (“Notice of Intent to Operate Under §501(c)(4)”), or the form’s successor, no later than 60 days after the date the organization is organized.
  - For any organization organized prior to July 8, 2016 and operating under §501(c)(4), the deadline is 60 days from July 8, 2016.
- The Temporary Regulations also clarify that the submission of the notification does not constitute an application to the IRS for a determination letter.
- The Temporary Regulations became effective on July 8, 2016. The comments period ended October 11, 2016.

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