

Donor Advised Funds: Past, present and future

January 14, 2022

39th Annual Nonprofit Organizations Institute

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Today's agenda

- An overview of donor advised funds (DAFs)
- DAF uses, both common and creative
- Recent litigation on the relationship between donors and DAFs
- Proposed legislation and IRS guidance that could affect DAFs in the future

History of DAFs

- Early 1900s: There is an evolution from field-of-interest funds of community foundations to DAFs.
- Throughout the 1900s: DAFs grow in popularity as burdens on private foundations increase and public charities evolve.
- Late 1980s-1990s: National organizations holding DAFs gain recognition.
- 1990s-2000s: Scrutiny on DAFs increases, and there are calls for regulation.
- 2006: The Pension Protect Act modifies the Internal Revenue Code (IRC) to include a definition of DAF and impose excise taxes on certain distributions and prohibited benefits.
- 2006-present: The IRS begins work on regulations under the new IRC provisions; the debates regarding DAFs continue.

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Statutory definition of DAF and sponsoring organization

- IRC 4966(d)(2) defines a DAF as:
 - A fund or account owned and controlled by a sponsoring organization
 - Which is separately identified by reference to contributions of the donor or donors, and
 - Where the donor (or a person appointed or designated by the donor) has, or reasonably expects to have, advisory privileges over the distribution or investments of the assets by reason of the donor's status as a donor.
- IRC 4966(d)(1) defines a "sponsoring organization" as an organization that:
 - Is described in Section 170(c),
 - Is not a private foundation, and
 - Maintains one or more DAFs

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First appeared as part of the conference materials for the
39th Annual Nonprofit Organizations Institute session
"Donor Advised Funds: Past, Present and Future"