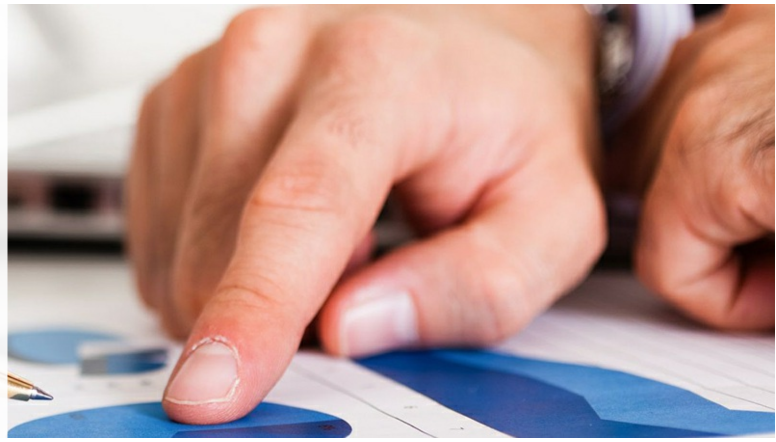
PETROCELLI
FINANCIAL SERVICES LLC

Donor Advised Funds



Overview

Donor advised funds (DAFs) are separate accounts of a sponsoring charitable organization established by a donor. The donor (or his designee) retains the right to make nonbinding recommendations for fund grants and investments. The sponsoring charity typically receives a small annual management fee and may assist the donor with selection of worthy grant recipients and performing due diligence on donor's recommended grants.

DAFs are most commonly offered by community foundations which make grants to various local charities, but they are also available through a wide variety of other nonprofit organizations such as universities and foundations set up by mutual fund companies. Community foundations may be a good fit for a donor who would like assistance or recommendations in making charitable grants or who prefers that a large portion of the fund benefit local charities. A foundation established by a mutual fund may be beneficial where the donor knows in advance which charities he would like to benefit and/or where the donor would like to benefit a broader range of charities.

Donor-advised funds are most often cited as the public charity alternative to private foundations. They can provide the donor and the donor's family involvement similar to that associated with private foundations but with significantly lower costs and complexity.

Tax Implications

Compared with private foundations, gifts to qualifying DAFs receive favorable tax treatment. Donations of cash result in an income tax deduction of up to 50% of the donor's adjusted gross income (AGI). Gifts of ordinary income property are also generally subject to the 50% of AGI limitation up to cost basis. Deductions for gifts of long term capital property are generally deductible at their full fair market value up to 30% of AGI. However, a donor may elect to deduct up to 50% of AGI for long term capital gain if the asset is valued at the lesser of cost basis or fair market value.

Donations above these limits are generally eligible for the 5 year carry forward. Contributions to DAFs also qualify for unlimited estate tax charitable deductions. Gifts will only qualify for a deduction if the sponsoring charity provides a written statement that it assumes all legal control over the gift to the fund.

Requirements

While DAFs are not subject to all of the restrictive private foundation rules, the following do apply.

- **Taxable Distributions:** DAFs may make grants to the sponsoring charity's general fund, other public charities (other than a supporting organization), private operating foundations, other DAFs, and in some cases, to a foreign charity or non-charitable organization for charitable purposes. However, any distributions from a DAF to a private individual are subject to an excise tax. This tax would also apply to distributions made to certain supporting organizations, foreign charities, and non-charitable organizations.
- **Prohibited Benefits:** Excise taxes will apply to any donor, donor advisor, or any person related to either who recommends a distribution which provides more than an incidental benefit to such person. Additional tax may also apply to a fund manager who approves such a distribution.
- **Excess Benefit Transactions:** Any grant, loan, compensation or other payment made to a donor, his advisors, or a party related to either will be subject to excise tax regardless of whether it was made in relation to services provided. (Compare with private foundations which may pay reasonable compensation to donors, advisors, and their family.) If a party in question provides services to the charity, any compensation should come from the sponsoring charity rather than the DAF.
- **Excess Business Holdings:** Like private foundations, DAFs are generally prohibited from owning more than 20% of a corporation or other business entity. (Exception: DAFs have 5 years to dispose of excess business holdings that were received by gift or bequest before a penalty is triggered.)

Advantages and Disadvantages

Compared to private foundations, the donor's right to control the use of funds is limited. While the donor may make recommendations for grants, the charity has ultimate control and may place restrictions on issues such as timing and amount of grants.

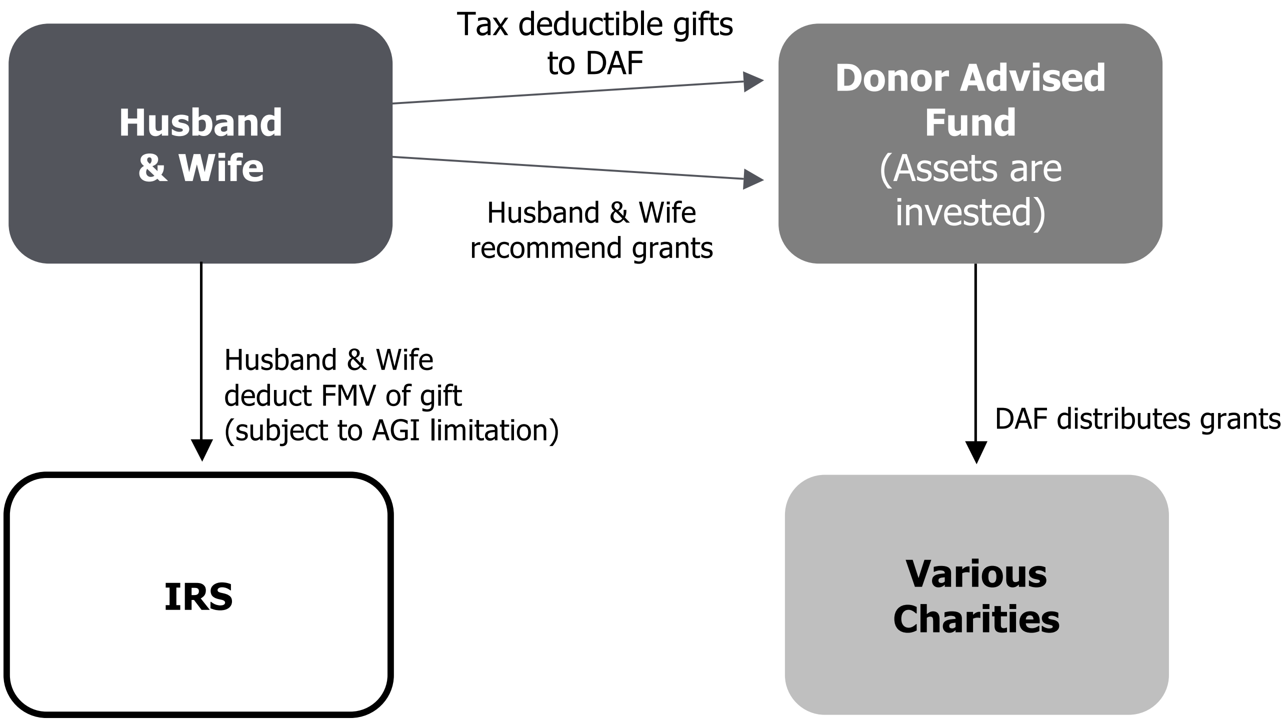
Donor advised funds are generally very simple to understand and use. While the supporting organization may impose annual administrative fees on DAFs, costs are significantly lower than that of a private foundation and there is generally no need to enlist the services of legal advisors.

DAFs can be set up fairly quickly, which can be very useful for end-of-year tax planning. (Some DAFs can even be set up online). This is especially true where a donor needs an immediate income tax deduction, but needs time to decide which charities to benefit. The process to obtain tax-exempt status for a private foundation can take anywhere from 3 to 6 months.

DAFs are a good charitable planning tool for donors who would like to make smaller-scale donations. Some DAFs have fund limits as low as $5,000. The start-up costs alone associated with a private foundation can be $15,000 or more.

Unlike private foundations, DAFs do not have a minimum annual distribution requirement. This may allow a donor more flexibility with regard to timing of gifts. However, some supporting organizations may have internal policies regarding minimum distributions for their DAFs.

While DAFs are subject to excise taxes on certain transactions, they are not subject to the private foundation taxes on investment income, self-dealing, failure to make qualifying distributions, and jeopardy investments.



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