



Things You Need to Know *Estate Planning with Paul Hood*

The ABC's of DAFs (Donor Advised Funds)

1) **What are DAFs?** Unlike either the private foundation or the supporting organization, which are separate organizations, a DAF is only a fund or account that is separately identified by contributions by a donor or donors, which is sponsored by a “sponsoring organization” (essentially must be a public charity.) A donor or someone appointed by the donor expects to have advisory (but non-binding) privileges over the distributions or investments. DAFs now are purely a creature of tax law, although they’ve been a part of philanthropy for a long time.

Individuals can take an immediate tax deduction of the full amount that they contribute to a DAF (subject to the regular contribution base limitations of income tax charitable contribution deductions.) There are presently no rules or regulations about how quickly the money actually has to be distributed by the sponsoring organization for charitable purposes, although Congress has talked about changing this. Since 1969, Congress has required private foundations to distribute at least 5% of the value of the private foundation annually or face confiscatory penalties. Under the law as it stands today, a DAF can hold onto the contributed funds indefinitely, which has attracted the ire of some in Congress. I believe that DAFs will eventually be subject to some form of minimum required distributions scheme.

Currently, a family can’t be in control of a DAF or a sponsoring organization. If a family wants more control than just mere input, then the DAF is not the way to go. In this instance, consider either a private foundation or a supporting organization.

You can usually start a DAF with a much lower initial charitable donation than either a private foundation or a supporting organization. DAF sponsoring organizations have different account minimums.

In the life cycle of a private foundation that is established by a family, it is not unusual to see the foundation converted at some point to a DAF, usually where the family has no one either interested in or capable of running the family foundation on a day-to-day basis.

2) **How do I establish a DAF?** Most DAF sponsoring organizations make it very easy to open a DAF account on-line today. Some only require a minimum contribution of as low as \$500 to open a new DAF account.

3) **What are the advantages and disadvantages of a DAF to the Donor?** DAFs are merely tools to be used in charitable planning and are neither good nor bad. DAFs come with a number of advantages and disadvantages, which I discuss below.

Advantages of DAFs

- **Simplified record keeping**- it's much easier to keep track of one tax receipt for a single contribution to a DAF, which then gives money to the preferred charities, provided that the sponsoring organization accepts the donor’s recommendations.
- **One can name a DAF**, such as the Hood Family Fund.

- **The most common strategy for using a DAF is to “front load” charitable contributions** in a high-income year – when the contribution base limitation for charitable contributions will be higher – and then use the DAF to make subsequent distributions to the charities themselves in the future.
- **The DAF can be effectively used to give anonymously**, unlike a private foundation.
- **The contributed funds grow tax-free inside of the DAF.**
- **The DAF facilitates donations to a wider range of charitable organizations** than most private foundations and supporting organizations that are established to support only a few charities, and often only one charity.
- **There presently is no minimum distribution requirement** for DAFs, so that a DAF account can grow faster.
- **DAF accounts allow a donor to make a substantial gift** for the benefit of a small charitable organization without having to worry about a small charity’s ability to manage money.

Disadvantages of DAFs

- **The DAF sponsoring organization truly is in control** over donations and has the final say in where contributions go. This is one reason why I’m not a big fan of DAF accounts with the mega-DAF sponsoring organizations, e.g., Fidelity Charitable, Schwab Charitable, because most charitable giving is local, while the management and grant making staff of these mega charitable DAF sponsoring organizations are somewhere else and may not appreciate the local nature of the charitable advice. Don’t get me wrong—there’s nothing wrong with the mega DAF supporting organizations, but I’m bothered by their size of potentially unrestricted funds and lack of local nexus, particularly after the end of the advisory privileges.
- **Donors who are unhappy** with the sponsoring organization’s responsiveness or decisions can’t get their money back. DAFs are donor advised funds. If the donor wants more control, then the DAF isn’t the way to go. In that event, consider either a private foundation or a supporting organization.
- **For most sponsoring organizations, but not all, the advisory privileges don’t have perpetual life**, after which the DAF is subsumed into its general charitable pool, sometimes only one or two generations at most. This is where the mega DAF sponsoring organizations concern me because the money usually becomes a part of the sponsoring organization’s unrestricted funds, and there’s usually no local connection. In my opinion, charitable giving must have a local component. After the family’s advisory privileges are gone, it is doubtful that the sponsoring organization will continue to contribute to local charities, and the mega DAF sponsoring organization will be free to support its own initiatives, unburdened by advisory privileges. I think that DAFs should only be done with local community foundations, such as the Toledo Community Foundation because I believe that there’s a local connection required in charitable giving.
- **It often is very difficult to ascertain how much in the way of fees** are being charged by the sponsoring organization. There’s a wide disparity in the amount of fees charged by

sponsoring organizations, so it's important to ask and shop around. Again, I find the local community foundations are the most transparent when it comes to administrative fees.

- **Grants to a charity must be solely for the benefit of the charity**, and the donor cannot receive any goods or services in exchange; as a result, grants from a DAF to purchase football tickets or tickets for a charitable event or a table at a charitable dinner are not permitted.
- **DAFs have attracted the ire of Congress**, so changes might be looming, most notably to the current no required distributions situation.

4) ***What are the advantages and disadvantages of a DAF for the nonprofit?*** At the outset, DAF donated funds are held by the sponsoring organizations, not the charitable organization that receives a distribution gift. Some charitable organizations regard DAFs as threats because most charitable organizations want to invest and manage and control their funds, and not have to be limited to simply receiving distributions. However, this is misguided and short-sighted in my opinion. Some donors want to make a significant contribution but are reticent because of concerns that the charitable organization might not manage the funds well. DAFs make annual distribution gifts to these organizations. In my opinion, charitable organizations should enthusiastically embrace the DAF as just another source of gifts. However, I believe that the community foundation serves as a far superior DAF sponsoring organization because the funds will stay in the local vicinity after the advisory privileges end.

For more information, please contact Advancement Director Eileen Kerner at 419-824-3625.

About the Author:

Paul Hood obtained his undergraduate and law degrees from Louisiana State University and an LL.M. in taxation from Georgetown University Law Center before settling down to practice tax and estate planning law in the New Orleans area. Paul has taught at the University of New Orleans, Northeastern University, The University of Toledo College of Law and Ohio Northern University Pettit College of Law. Paul has authored or co-authored seven books and over 500 professional articles on estate and tax planning and business valuation.

What is the legal name of the Sylvania Franciscans?

Sisters of St. Francis of Sylvania, Ohio. The Sisters of St. Francis is a 501(c)(3) organization and your donation is tax deductible to the fullest extent of the law. Tax ID#34-4450609