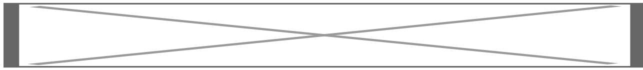

Insights

Is Now the Time to Consider Establishing a Donor Advised Fund?

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While donor advised funds ("DAF" or "DAFs") have been around since the 1930's, they were not defined by statute until the Pension Protection Act of 2006 added Section 4966(d)(2) to the Internal Revenue Code. With the passage of President Trump's Tax Cuts and Jobs Act in December of 2017 ("TCJA"), DAFs have become an increasingly popular vehicle to help charitably-minded, tax conscious individuals and families benefit from charitable donations.

What are DAFs and How do DAFs Work?

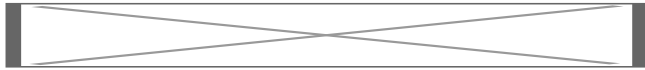
A DAF is like a personal charitable savings or investment account. An individual creates an account and makes contributions of cash, stock, or other assets that might appreciate in value such as real estate or artwork. A DAF is controlled by a nonprofit organization, often called a "sponsoring organization," which will invest the assets and manage the donor's account. Community foundations have historically been the most common sponsoring organizations, but over the past couple of decades, commercial financial institutions have developed nonprofit arms to serve as sponsoring organizations as well.

Once a DAF is created and funded with donated assets, the donor cedes control over the assets to the sponsoring organization. At that point, the donor may only direct the investment of the assets in their account and advise the sponsoring organization which nonprofits they would like to donate to from the fund. While the donor's wishes are generally adhered to, the sponsoring organization ultimately has the authority to decide what distributions will be made. Recipients of distributions from a DAF must be recognized 501(c)(3) organizations.

What are the Tax Advantages of the DAF?

For years, itemizing taxpayers have enjoyed income tax deductions for contributions to qualifying charities. However, with the significant increase in the standard deduction introduced by the TCJA (now $12,000 for single filers and $24,000 for those married, filing jointly), it is much harder for individuals to realize the same tax benefit from their charitable giving. By establishing a DAF, a donor can take an immediate tax deduction on gifts to the fund, with ultimate distributions to qualified charities being spaced out over subsequent tax years. Using this technique, referred to as "bunching," donors can continue to maintain their normal charitable giving while maximizing their tax savings.

While the increase in the standard deduction makes it more difficult for most taxpayers to itemize, the changes were not all bad news for donors. The TCJA increased the deduction cap on gifts of cash. Now, an individual can deduct cash gifts that amount to as much as 60% of an individual's adjusted gross income (up from 50%). In addition, the TCJA temporarily suspended the overall limitation on itemized deductions for high-income



earners.

What are the Non-Tax Benefits of the DAF?

Besides the tax advantages, creating a DAF allows individuals to include their families and friends in the philanthropic process and unite over a common charitable purpose since many sponsoring organizations allow family members and friends to contribute to an individual's DAF. Moreover, the maintenance costs and time commitment in setting-up a DAF are relatively low compared to operating and maintaining a private family foundation. There are also very minimal reporting requirements to the IRS if an individual creates a DAF compared to a private family foundation.

Overall, a DAF can be a cost-effective charitable vehicle for those who are philanthropic and tax conscious. At Krieg DeVault, LLP, we have attorneys that practice in the tax and nonprofit industries, have set-up and created DAFs and private family foundations, and have created estate and gift tax plans that help individuals and families maximize their savings and deductions. For more information, please contact Micah J. Nichols or Kendall A. Schnurpel.