

PRIVATE FOUNDATIONS AND DONOR-ADVISED FUNDS

	Private Foundation ("PF")	Donor-Advised Fund ("DAF")
A. <u>Questions Regarding Deductibility:</u>		
1. Limit for all annual contributions combined?	30% of AGI	60% of AGI
2. Tax deduction for contributions of long-term appreciated securities?	Yes. Fair market value up to 20% of AGI	Yes. Fair market value up to 30% of AGI
3. Tax deduction for contributions of other long-term appreciated assets (such as real estate) and closely-held securities?	Yes. Cost basis up to 20% of AGI	Yes. Fair market value up to 30% of AGI
4. Tax deduction for contributions of cash?	Yes. Up to 30% AGI	Yes. Up to 60% AGI
B. <u>Questions regarding Family Involvement:</u>		
1. May members of the founding family be appointed to the board of directors (the "Board") or as officers?	Yes. Adult children, spouses, and other family members may be appointed to the Board or as officers of the PF.	No. A DAF is not a legal entity, so it does not have a board of directors.
2. May members of the founding family be involved in grantmaking and other foundation activities?	Yes. Family members may participate in the governance, decision making, and day-to-day activities of running the PF.	Yes. The donor can name family members as additional advisors to participate in all account privileges. The DAF may limit, however, the number of advisors.
3. May members of the founding family receive compensation for services?	Yes. Subject to certain limitations, a PF may compensate members of the founding family for providing services to the PF.	No. A DAF is strictly prohibited from compensating family members.
C. <u>Questions regarding Control:</u>		
1. May the founding family maintain legal control in perpetuity?	Yes, if the Board so chooses. The Board retains authority, subject to any limitations in the bylaws, to perpetuate or dissolve the foundation. The founding family may retain legal control of the PF	No. The founding family has no legal control over the DAF.

	for unlimited generations so long as proper succession plans are developed to preserve family control over the Board.	
2. May the founding family retain financial control in perpetuity?	Yes, if the Board so chooses. The Board retains authority, subject to any limitations in the bylaws, to financial control of the PF. The founding family may retain financial control of the PF for unlimited generations so long as proper succession plans are developed to preserve family control over the Board.	Not always. Each sponsoring organization maintains policies addressing how control over the DAF passes from the founders. In most instances, the founding donor may appoint one or more successors who in turn may appoint their own successors, sometimes for a limited number of generations. If no successor is appointed or if the DAF remains dormant for a specified number of years, the DAF may revert to the control of the sponsoring organization.
3. May the founding family control the management of investments?	Yes. The Board may exercise total control over the PF's investment strategies, vehicles, policies, and investment managers.	In part. Typically, the donor is limited to making recommendations as to how the DAF's assets are invested within the options offered by the sponsoring organization.
4. May the founding family manage the grantmaking process?	Yes. The Board can establish its own grantmaking procedures for receiving, reviewing, approving, and following up on grant proposals, issuing reporting requirements, and monitoring reports as part of a formal relationship with grant recipients.	To some extent. Donors are advisors to the DAF, not grantmakers, but some sponsoring organizations will provide tools and services to help donors create grant recommendations.
5. May the founding family control to which organizations grants are distributed?	Yes. Subject to any legal restrictions, the Board fully controls to which organizations grants are distributed. Grants may be made to a wide range of institutions and individuals both in the United States and internationally.	No. A donor is limited to making recommendations as to how grants are allocated. The sponsoring organization typically honors donor recommendations. But the sponsoring organization must retain ultimate control over the DAF's grant allocations. In most instances, the donor grant recommendations are limited to IRS-recognized public charities in the United States.
<i>D. Questions regarding Operations:</i>		
1. Start giving quickly?	Yes. In most instances, a PF can be incorporated and bank accounts opened within about 36 to 48 hours.	Yes. A DAF can be initiated in person or online quickly.

2. Pay expenses associated with operations, grantmaking, etc.?	Yes. All reasonable and necessary expenses associated with the PF's charitable purposes, including startup, board meetings, administration, site visits, legal counsel, etc., may be paid by the PF. These expenses count toward the minimum distribution requirement imposed by the Treasury Regulations.	No. No expenses may be paid with a DAF.
3. Hire staff?	Yes. A PF may hire staff to carry out its philanthropic goals.	No. A DAF may not have staff. The sponsoring organization typically provides staff and other support resources.
4. File state and federal tax returns?	Yes. A PF is required to file an annual IRS Form 990-PF and comply with other state and federal filing requirements.	No. A DAF does not itself file state and federal tax returns.
<i>E. Questions regarding Grantmaking:</i>		
1. Is there a minimum distribution requirement?	Yes. A PF must meet an annual 5% minimum distribution requirement based on the PF's net assets in the prior tax year. Qualifying distributions include grants and qualified expenses.	No. Typically, a DAF has no minimum distribution requirement. The sponsoring organization may, however, enforce a minimum distribution requirement on DAFs under its control if the sponsoring organization needs to reach its annual institutional distribution target.
2. Make grants to individuals and families facing hardships, emergencies, or other distress?	Yes. Under certain conditions, a PF may make grants to individuals facing hardships, emergencies, financial distress, medical distress, etc.	No. Donors may not recommend grants be made to individuals.
3. Give directly to international organizations?	Yes. A PF may make grants directly to foreign charities and non-governmental organizations that serve a clear charitable purpose so long as they are compliant with federal laws governing international giving.	Not directly. Donors can usually recommend grants only to public charities based in the US or to international organizations that have affiliate organizations based in the US.
4. Provide scholarships?	Yes. A PF may provide scholarships, fellowships, and awards directly to recipients as long as the PF's	Not directly. A DAF may only make such a grant to an organization that administers a scholarship program

	scholarship or fellowship program is approved in advance by the IRS.	and not directly to scholarship recipients or individuals from the DAF.
5. Engage in Program-Related Investments (“PRIs”)?	Yes. A PF may engage in a variety of innovative ways to fund organizations, including loans, loan guarantees, and equity investments. PRIs earn returns for the PF and are recycled back into the PF’s giving pool, so they don’t drain a PF’s assets like traditional grants.	No. A DAF may not engage in PRIs, it may only make grants.
6. Run programs?	Yes. A PF may run its own programs and pay for related expenses (supplies, salary, rent, etc.), provided these activities fall within the IRS guidelines.	No. A DAF may not operate its own charitable programs.
7. Make institutional pledges?	Yes. A PF may not fulfill personal pledges made by the donor, officers, or family members, but the PF itself may make and fulfill pledges.	Yes. A DAF may be used to fulfill personal pledges so long as the DAF sponsor doesn’t reference the pledge, the donor doesn’t receive more than an incidental benefit, and the donor does not claim a charitable deduction for the grant from the DAF.* *Notice 2017-73: IRS is continuing to review this issue and may publish new rules on issue.
8. Create grant agreements?	Yes. A PF may enter into agreements with grantees when making conditional grants, major gifts, grants that involve naming rights, complex assets, or multi-year programs.	No. A donor may not generally hold a grantee accountable, except to decline future grant recommendations to the DAF.