The Weekly Scenario: Donor-Advised Funds

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A donor-advised fund is like a charitable investment account, for the sole purpose of supporting charitable organizations you wish to benefit. When you contribute cash, securities or other assets to a donor-advised fund at a public charity, you are generally eligible to take an immediate tax deduction. Then those funds can be invested for tax-free growth and you can recommend grants to virtually any IRS-qualified public charity.

When you give, you want your charitable donations to be as effective as possible. Donor-advised funds (DAF) are gaining in popularity because they are one of the easiest and most tax-advantageous ways to give to charity.

But it is important for donors to keep in mind that a donor to a DAF can only claim an income tax deduction for a charitable contribution to a DAF if the donor makes a completed gift and relinquishes dominion and control over the donated property.

In making a gift to a DAF, the DAF will generally advise its donors in writing of the following:

- their donations to the fund are irrevocable and unconditional,
- the donations are subject to the exclusive legal authority and control of the DAF as to their use and distribution,
- donors cannot make donations subject to any material restrictions or conditions (such as reserving a right to control or direct distributions or "any other condition that prevents the DAF from exercising exclusive legal control over the use of contributed assets to further its exempt purposes, and
- the DAF retains final authority over the distribution of all grants and may decline or modify a grant recommendation that is inconsistent with the DAF's program policies, or for any other reason.

It is for this reason, that it is crucial for donors to understand that once a gift is made, the donor gives up most of the control over the asset, other than as an advisory grant maker, and has very little recourse in gaining access to the asset for use other than advisory grant making.

As always, if you have any questions or would like to learn more, please contact Steve Shane at sshane@offitkurman.com or 301.575.0313.