Q&A about charitable Giving from an IRA

Q: Under what conditions may donors donate to a charity from retirement funds?

A: Donors aged 70½ or older may make Qualified Charitable Distributions (QCDs) directly from their IRA (excluding ongoing SEP or SIMPLE IRAs) to a qualified charity. The annual limit is $105,000 per individual for 2025 (indexed for inflation). The distribution must be made directly by the IRA trustee to the charity. QCDs cannot be made to donor-advised funds (DAFs), supporting organizations, or private nonoperating foundations. QCDs are excluded from gross income and can count toward the required minimum distribution (RMD), but are not deductible as charitable contributions. If a distribution is not a QCD, it is taxable, but the donor may claim a charitable deduction if they itemize, subject to AGI limitations.

Q: What are the IRS rules for withdrawing funds from retirement accounts specifically for charitable donations?

A: The main vehicle is the QCD, which allows individuals 70½ or older to transfer up to $105,000 per year (2025 limit) directly from an IRA to a qualified charity. The transfer must be direct; if the donor receives the funds first, it does not qualify. QCDs cannot be made from employer-sponsored plans or ongoing SEP/SIMPLE IRAs. The recipient must be a public charity (not a DAF, supporting organization, or private nonoperating foundation). QCDs are not deductible but are excluded from income and can satisfy RMDs. The donor cannot receive any benefit in return, and proper substantiation is required.

Q: Whare are QCDs permitted from?

A: QCDs are only permitted directly from IRAs (traditional, and in some cases, inactive SEP or SIMPLE IRAs). They are not permitted directly from 401(k), 403(b), 457(b), or other employer-sponsored plans. To make a QCD with funds from these plans, you must first roll over the funds into a traditional IRA and then make the QCD from the IRA. Alternatively, you can take a taxable distribution from the employer plan and make a charitable donation, potentially claiming a deduction if you itemize, but this is not a QCD and does not provide the same tax benefits (see chart below)

Q: What are the rules for DAFs? Who can hold them? Who can be the owner of a DAF?

A: A DAF is a fund or account at a sponsoring organization (a public charity, not a private foundation or government entity) that is separately identified by donor contributions and for which the donor or their appointee has advisory privileges over distributions or investments. The sponsoring organization is the legal owner and has ultimate control over the DAF and its assets. Donors (individuals, corporations, partnerships, trusts, or estates) can contribute to a DAF, except for governmental units and certain public charities. Donor-advisors (appointed by the donor) may provide nonbinding advice on distributions or investments. Related persons (family members or 35% controlled entities) are also subject to DAF rules.

Q: Can a charity put money back in its DAF to collect interest?

A: No. Once a charity receives a grant from a DAF, those funds are no longer part of the DAF and become the property of the recipient charity. The charity cannot "return" or "deposit" funds back into the DAF to earn interest for itself. Any new contribution to a DAF is subject to all DAF rules, and using a DAF as a de facto interest-bearing account for a charity is not permitted.

Q: Are there any limitations on the transfer of funds sitting in the DAF?

A: Yes. DAFs may only make grants to qualified public charities (not to individuals, supporting organizations, or for non-charitable purposes). Distributions to individuals or for non-charitable purposes are prohibited and subject to excise taxes. DAFs cannot provide more than incidental benefits to donors, donor-advisors, or related persons. Transfers between DAFs are generally permitted but are subject to anti-abuse scrutiny. Once contributed, funds are irrevocable and cannot be returned to the donor. DAFs cannot make loans or pay compensation to donors or related persons. Investment earnings accrue to the DAF for future grantmaking, not to the donor or related parties.

Q: Can an organization be its own donor-advisor on a DAF set up with a third-party community foundation?

A: Yes, an organization (as defined under the tax code, including corporations and associations) can be appointed as the donor-advisor with advisory privileges over distributions or investments from a DAF it establishes at a third-party community foundation, provided it is not a governmental unit or a public charity excluded by the regulations. The sponsoring organization (the community foundation) must retain ultimate authority and control over the DAF, and the advisory privileges must be nonbinding. There is no IRS rule restricting donor-advisors to individuals only; the term "person" includes organizations.

Q: Who reports and oversees DAFs?

A: Sponsoring organizations (public charities that maintain DAFs) must report DAF activity on Schedule D of Form 990, including the number of DAFs, contributions, grants, and year-end balances. DAFs are subject to excise taxes on certain taxable distributions and on prohibited benefits to donors, donor-advisors, or related persons.

Q: Are there exceptions to what constitutes a DAF?

A: Yes. Funds that make distributions only to a single identified organization, certain scholarship or grantmaking funds with proper committee oversight, and certain disaster relief funds may be exempted from DAF status if they meet specific requirements.

Q: What are the key compliance points for DAFs?

A: The sponsoring organization must have ultimate authority and control over the DAF. Donors and donor-advisors may only provide nonbinding advice. DAFs cannot make grants to individuals (except in limited, regulated circumstances), cannot provide more than incidental benefits to donors or related persons, and cannot be used as a means for donors to reclaim or control funds once contributed. All grants must be for charitable purposes and to eligible organizations.

Qualified Charitable Distribution Allowability

Account Type	QCD Permitted Directly?	QCD Permitted After Rollover to IRA?
Traditional IRA	Yes	N/A
Roth IRA	No (but see note)	N/A
SEP IRA (inactive)	Yes	N/A
SIMPLE IRA (inactive)	Yes	N/A
401(k), 403(b), 457	No	Yes, after rollover to IRA
Deemed IRA	Yes, if treated as IRA	N/A

Q&A

Qualified Charitable Distribution Summary

Requirement	Rule/Limit
Eligible Accounts	Traditional IRAs, Inherited IRAs, Roth IRAs (taxable portion only)
Ineligible Accounts	Ongoing SEP IRAs, SIMPLE IRAs, employer plans
Age Requirement	70½ or older at time of distribution
Annual Limit (2025)	$105,000 per individual
Direct Transfer	Must be made directly from IRA trustee to charity
Eligible Charities	IRC § 170(b)(1)(A) organizations (public charities, etc.)
Ineligible Charities	Donor-advised funds, supporting organizations, private nonoperating foundations
RMD Satisfied?	Yes, QCDs can count toward RMD
Tax Deduction	No, QCD is excluded from income, not deductible
Substantiation	Written acknowledgment required
One-Time Split-Interest	Up to $53,000 (2025) to certain split-interest entities

Research

1. Under What Conditions May Donors Donate to a Charity from Retirement Funds?

Qualified Charitable Distributions (QCDs) from IRAs:

- **Eligibility:** Individuals aged 70½ or older may make a qualified charitable distribution (QCD) directly from their IRA (other than a SEP or SIMPLE IRA) to a qualified charity.
- **Annual Limit:** The maximum QCD amount excluded from gross income is $100,000 per taxpayer per year, adjusted for inflation for years after 2023.
- **Direct Transfer Requirement:** The distribution must be made directly by the IRA trustee to the qualified charity. If the distribution is made to the account holder and then to the charity, it does not qualify as a QCD.
- **Eligible Recipients:** The recipient must be an organization described in section 170(b)(1)(A), but not a supporting organization described in section 509(a)(3) or a donor-advised fund (DAF) as defined in section 4966(d)(2).
- **Tax Treatment:** QCDs are excluded from gross income and are not deductible as charitable contributions (i.e., you cannot "double dip").
- **Split-Interest Entities:** Beginning in 2023, a one-time QCD of up to $50,000 (adjusted for inflation) may be made to a charitable remainder annuity trust, charitable remainder unitrust, or charitable gift annuity, provided the entity is funded exclusively by QCDs and meets other requirements [2].

Limitations:

- **DAFs Not Eligible:** QCDs cannot be made to donor-advised funds. Section 408(d)(8)(B)(i) specifically excludes DAFs from eligible recipients for QCDs.
- **Other Retirement Accounts:** QCDs are not permitted from 401(k), 403(b), or other employer-sponsored plans; only IRAs are eligible.
- **Deductibility:** If a distribution from a retirement account is not a QCD, it is generally taxable to the account holder, but the account holder may claim a charitable deduction if the distribution is then contributed to a qualified charity and the taxpayer itemizes deductions. However, the distribution is included in income, and the deduction is subject to AGI limitations and other rules [2].

2. Can a Charity Put Money Back in Its DAF (Donor Advised Fund) to Collect Interest?

General Rule:

Research

- **DAF Structure:** A DAF is a fund or account maintained by a sponsoring organization (typically a public charity) where donors may make irrevocable contributions and retain advisory privileges over distributions or investments. The sponsoring organization owns and controls the assets [3].

Interest and Investment Earnings:

- **DAF Assets:** Once funds are contributed to a DAF, they are invested by the sponsoring organization. The earnings (interest, dividends, capital gains) accrue to the DAF and are available for future grantmaking, subject to the sponsoring organization's policies.
- **No "Putting Money Back":** If a charity receives a grant from a DAF, those funds are no longer part of the DAF—they become the property of the recipient charity. The recipient charity cannot "return" the funds to the DAF to earn interest as if they were still part of the DAF. Any attempt to do so would not be consistent with the legal structure of DAFs, as the DAF is not a bank account for the charity but a fund controlled by the sponsoring organization.
- **Re-granting to DAF:** If a charity were to make a grant to a DAF, this would be treated as a new contribution to the DAF, subject to all the rules and restrictions applicable to DAF contributions. There is no provision in the Code or regulations that allows a charity to "deposit" funds in a DAF for the purpose of earning interest for itself. In fact, such a transaction could raise issues regarding the proper use of charitable assets and may not be consistent with the DAF rules [3].

3. Are There Any Limitations on the Transfer of Funds Sitting in the DAF (Donor Advised Fund)?

Yes, there are significant limitations:

A. Distributions from DAFs:

- **Permitted Distributions:** DAFs may make grants only to organizations described in section 170(b)(1)(A) (public charities, certain governmental units, etc.), with the exception of disqualified supporting organizations and other DAFs. Distributions to individuals or for non-charitable purposes are not permitted [3].
- **Taxable Distributions:** Any distribution from a DAF to a natural person, or to any entity that is not a qualified charity (unless expenditure responsibility is exercised and the grant is for a charitable purpose), is a "taxable distribution" subject to a 20% excise tax on the sponsoring organization and a 5% excise tax (up to $10,000 per distribution) on any fund manager who knowingly approves the distribution [3].

- **Expenditure Responsibility:** If a DAF makes a grant to an organization that is not a public charity (e.g., a non-charitable entity or a disqualified supporting organization), the sponsoring organization must exercise "expenditure responsibility" as defined in section 4945(h) to ensure the funds are used for charitable purposes [3].

B. Prohibited Transactions and Benefits:

- **No Personal Benefit:** Donors, donor-advisors, and related persons may not receive more than an incidental benefit from a DAF distribution. For example, a DAF cannot be used to pay for tickets to charity events that the donor or related persons attend, or to fulfill a donor's personal pledge, unless certain requirements are met (e.g., the DAF distribution is not referenced as fulfilling the pledge, and the donor does not claim a deduction for the DAF distribution) [4].
- **No Grants to Individuals:** DAFs cannot make grants to individuals, except in very limited circumstances (such as certain scholarship funds that meet strict requirements) [3].

C. Transfers Between DAFs:

- **DAF-to-DAF Transfers:** Distributions from one DAF to another DAF are generally not considered taxable distributions, but such transfers are subject to scrutiny to prevent abuse (e.g., to avoid payout requirements or to obscure the source of funds) [3].

D. Other Limitations:

- **No Return of Funds to Donor:** Once a contribution is made to a DAF, it is irrevocable. The donor cannot reclaim the funds.
- **No Loans or Compensation:** DAFs cannot make loans to, or pay compensation to, donors, donor-advisors, or related persons [3].

E. Investment of DAF Assets:

- **Investment Earnings:** DAF assets may be invested by the sponsoring organization, and earnings accrue to the DAF for future grantmaking. However, the DAF cannot make "distributions" to donors or related parties in the form of investment returns [3].

Summary Table of Key DAF Limitations:

Activity/Transfer	**Permitted?**	**Notes**
Grant to public charity	Yes	Must be a section 170(b)(1)(A) organization, not a disqualified supporting org or DAF.

Research

Activity/Transfer	Permitted?	Notes
Grant to individual	No	Prohibited except in limited, regulated scholarship situations.
Grant to donor, advisor, or related	No	Prohibited; more than incidental benefit triggers excise taxes.
Grant to another DAF	Yes	Permitted, but subject to anti-abuse rules.
Return of funds to donor	No	Contributions are irrevocable.
Investment of DAF assets	Yes	Earnings accrue to DAF for charitable purposes.
Charity "depositing" funds in DAF	No	Not permitted as a means to earn interest for the charity.

References:

- IRC §§ 170, 408(d)(8), 4966, 4967; Proposed Regs REG-142338-07; IRS Pub. 526; Notice 2017-73; PLR 200150039; PLR 200037053 [2] [3] [4] [5].

If you have a specific scenario or need further clarification on any of these points, please provide more details.

Like this answer?

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Sec. 170 Charitable, etc., contributions and gifts

|**Summarize**

[2]

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Sec. 408 Individual retirement accounts

|**Summarize**

[3]

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Research

IRS Proposed Regulations REG-142338-07

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Notice 2017-73

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2023 Publication 526

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Show 3 additional relevant sources

What are the IRS rules for withdrawing funds from retirement accounts specifically for charitable donations?

The IRS provides specific rules for making charitable donations directly from retirement accounts, primarily through Qualified Charitable Distributions (QCDs). Below is a comprehensive summary of the requirements and limitations for QCDs, including eligible accounts, age restrictions, annual limits, eligible recipient organizations, and restrictions on certain types of charities such as donor-advised funds (DAFs):

1. **Definition and Purpose of QCDs**

A Qualified Charitable Distribution (QCD) is a direct transfer of funds from an IRA to a qualified charity. QCDs allow individuals to exclude the amount donated from their taxable income, up to certain limits, and such distributions can also count toward the required minimum distribution (RMD) for the year [2].

2. **Eligible Retirement Accounts**

- **Traditional IRAs:** QCDs can be made from traditional IRAs.
- **Inherited IRAs:** QCDs can be made from inherited IRAs.
- **Roth IRAs:** QCDs can be made from Roth IRAs, but only to the extent the distribution would otherwise be taxable (generally, Roth IRA distributions are not taxable, so QCDs from Roth IRAs are less common).

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- **Exclusions:** QCDs **cannot** be made from ongoing SEP IRAs or SIMPLE IRAs (i.e., those to which an employer contribution is made for the year of the distribution) [2].

3. **Age Restrictions**

- The IRA owner must be **at least age 70½** at the time of the distribution for it to qualify as a QCD [2].

4. **Annual Limits**

- The maximum amount that can be excluded from income as a QCD is **$105,000 per individual per year** for 2025 (indexed for inflation; this amount may change in future years) [2].
- If both spouses are eligible and file jointly, each can exclude up to $105,000 for a total of $210,000 [2].

5. **Eligible Recipient Organizations**

- The recipient must be a **qualified charitable organization** as defined in IRC § 170(b)(1)(A). This includes most public charities, religious organizations, educational institutions, and certain private operating foundations [2]; [3].
- **Ineligible recipients** include:
    - **Donor-Advised Funds (DAFs):** QCDs cannot be made to DAFs as defined in IRC § 4966(d)(2) [2]; [3].
    - **Supporting Organizations:** Organizations described in IRC § 509(a)(3) are not eligible [2].
    - **Private Nonoperating Foundations:** Generally, QCDs cannot be made to these organizations.
    - **Charitable Remainder Trusts, Charitable Lead Trusts, and Pooled Income Funds:** QCDs cannot be made to these entities.

6. **Direct Transfer Requirement**

- The distribution must be made **directly by the IRA trustee to the qualified charity**. If the IRA owner receives the distribution and then donates it, it does not qualify as a QCD [2].

7. **Tax Treatment**

- QCDs are **excluded from gross income** (not included as a taxable distribution).

- The amount of the QCD is **not deductible** as a charitable contribution on Schedule A, since it is already excluded from income [2]; [3].
- If a QCD is made from an IRA that includes nondeductible contributions, the QCD is treated as coming first from otherwise taxable income [2].

8. **Required Minimum Distributions (RMDs)**

- QCDs can be used to satisfy all or part of the IRA owner's RMD for the year, provided the QCD is made before the RMD deadline (generally December 31) [2].

9. **Special Rules and Limitations**

- **No Benefit to Donor:** The donor cannot receive any benefit in return for the QCD (e.g., tickets to an event, goods, or services) [2].
- **Substantiation:** The donor must obtain a contemporaneous written acknowledgment from the charity, as required for any charitable contribution [2].
- **Reduction for Post-70½ IRA Contributions:** The amount of QCDs that can be excluded from income is reduced by the aggregate amount of IRA contributions deducted for the year and any prior year after the individual attains age 70½, to the extent those contributions have not already reduced the excludable amount of QCDs in prior years [2].

10. **One-Time Election for Split-Interest Entities**

- There is a **one-time election** to make a QCD of up to $53,000 (for 2025) to a split-interest entity (such as a charitable remainder trust or charitable gift annuity), subject to additional requirements and limitations [2]; [3].

11. **Reporting**

- QCDs are reported on Form 1099-R. The IRA custodian will report the distribution as a normal distribution, but the taxpayer must ensure the QCD is properly reported on their tax return (Form 1040, line 4a and 4b, with "QCD" notation) [2].

12. **Summary Table**

Requirement	**Rule/Limit**
Eligible Accounts	Traditional IRAs, Inherited IRAs, Roth IRAs (taxable portion only)
Ineligible Accounts	Ongoing SEP IRAs, SIMPLE IRAs, employer plans

Research

Requirement	Rule/Limit
Age Requirement	70½ or older at time of distribution
Annual Limit (2025)	$105,000 per individual
Direct Transfer	Must be made directly from IRA trustee to charity
Eligible Charities	IRC § 170(b)(1)(A) organizations (public charities, etc.)
Ineligible Charities	Donor-advised funds, supporting organizations, private nonoperating foundations
RMD Satisfied?	Yes, QCDs can count toward RMD
Tax Deduction	No, QCD is excluded from income, not deductible
Substantiation	Written acknowledgment required
One-Time Split-Interest	Up to $53,000 (2025) to certain split-interest entities

13. **References to Code and Regulations**

- **IRC § 408(d)(8):** QCD rules and requirements.
- **IRC § 170(b)(1)(A):** Definition of eligible charitable organizations.
- **IRC § 4966(d)(2):** Definition of donor-advised funds.
- **IRC § 509(a)(3):** Supporting organizations.
- **IRC § 408(d)(8)(B):** Exclusion from income for QCDs.
- **IRC § 408(d)(8)(C):** Requirements for eligible organizations.
- **IRC § 408(d)(8)(F):** One-time election for split-interest entities.

In summary:
QCDs allow individuals age 70½ or older to make direct transfers from their IRA (not from ongoing SEP or SIMPLE IRAs) to most public charities, up to $105,000 per year, with the amount excluded from income and counting toward the RMD. QCDs cannot be made to donor-advised funds, supporting organizations, or private nonoperating foundations. The distribution must be made directly to the charity, and the donor cannot receive any benefit in return. Proper substantiation is required, and the QCD is not deductible as a charitable contribution since it is already excluded from income [2]; [3].

Research

Like this answer?

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Sec. 408 Individual retirement accounts

|**Summarize**

[2]

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Publication 590-B (2024)

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[3]

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Publication 526 (2024)

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Show 4 additional relevant sources

DAFS

The IRS rules governing donor-advised funds (DAFs) are set out in the Internal Revenue Code, Treasury Regulations, IRS Notices, and proposed regulations. Below is a comprehensive summary of the key rules, including who can establish or contribute to a DAF, which organizations can sponsor or hold a DAF, and who is considered the owner or advisor of a DAF.

1. Definition of a Donor-Advised Fund (DAF)

A DAF is defined as a fund or account:

- That is **separately identified** by reference to contributions of a donor or donors,
- That is **owned and controlled by a sponsoring organization**, and
- With respect to which a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, **advisory privileges** regarding the distribution or investment of amounts held in the fund or account by reason of the donor's status as a donor [1].

Research

Exceptions

A fund or account is **not** a DAF if:

- It makes distributions only to a single identified organization or governmental entity,
- It is a scholarship or similar fund where the donor's advisory privileges are exercised solely as a member of a committee appointed by the sponsoring organization, with no control by the donor or related persons, and all grants are awarded on an objective and nondiscriminatory basis under a procedure approved in advance by the board of the sponsoring organization,
- The Secretary of the Treasury exempts the fund because it is advised by a committee not controlled by the donor or related parties, or because it benefits a single identified charitable purpose [1] [5].

2. Who Can Establish or Contribute to a DAF

- **Donors**: Any person as defined in section 7701(a)(1) (including individuals, corporations, partnerships, trusts, and estates) can contribute to a DAF, except that governmental units described in section 170(c)(1) and public charities described in section 509(a)(1), (2), or (3) (other than disqualified supporting organizations) are not considered "donors" for DAF purposes [5].
- **Multiple Donors**: A DAF may have multiple donors, and the fund is considered a DAF if at least one donor or donor-advisor has, or reasonably expects to have, advisory privileges by reason of their status as a donor [5].

3. Which Organizations Can Sponsor or Hold a DAF

A **sponsoring organization** is defined as:

- An organization described in section 170(c) (other than a governmental unit described in section 170(c)(1)), and
- Not a private foundation (as defined in section 509(a)), and
- Maintains one or more DAFs [1] [5].

Key points:

- Only public charities (other than private foundations and governmental units) can be sponsoring organizations.
- Community foundations and other qualifying public charities often serve as sponsoring organizations.

- Private foundations and governmental entities cannot sponsor DAFs [5].

4. Who is Considered the Owner or Advisor of a DAF

Ownership

- The **sponsoring organization** is the legal owner and has ultimate control over the DAF and its assets [1].

Donor-Advisor

- A **donor-advisor** is any person appointed or designated by a donor to have advisory privileges regarding the distribution or investment of assets in the DAF.
- Advisory privileges may be formal (e.g., written agreement) or informal (e.g., regular solicitation of advice by the sponsoring organization).
- Advisory privileges must arise by reason of the donor's status as a donor [5].

Special rules:

- A person who establishes a fund and advises on distributions or investments is treated as a donor-advisor, even if they do not contribute to the fund.
- An investment advisor who manages both the DAF's assets and the personal assets of a donor is treated as a donor-advisor unless the advisor is properly viewed as providing services to the sponsoring organization as a whole [5].

Related Persons:

- Family members of donors or donor-advisors, and entities controlled by them (35% controlled entities), are treated as related persons for purposes of DAF rules [1].

5. Reporting and Compliance

- Organizations that maintain DAFs must report them on Schedule D of Form 990, including the number of DAFs, contributions, grants, and year-end balances [6].
- DAFs are subject to excise taxes on certain taxable distributions and on prohibited benefits to donors, donor-advisors, or related persons [1].

6. Summary Table of Key Terms

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Term	Definition/Rule
DAF	Fund/account: (1) separately identified by donor, (2) owned/controlled by sponsoring org, (3) donor/advisor has advisory privileges
Donor	Any person (not a governmental unit or certain public charities) who contributes to a DAF
Sponsoring Org	Public charity (not a private foundation or government) that maintains DAFs
Donor-Advisor	Person appointed by donor to have advisory privileges over DAF distributions/investments
Related Person	Family member or 35% controlled entity of donor or donor-advisor

7. Exceptions and Special Cases

- **Single Identified Organization Exception**: A fund making distributions only to a single identified organization (not a disqualified supporting organization) is not a DAF.
- **Scholarship/Grantmaking Exception**: A fund making grants to individuals for travel, study, or similar purposes is not a DAF if the donor's advisory privileges are exercised solely as a member of a properly constituted selection committee.
- **Disaster Relief and Other Secretary-Exempted Funds**: Certain disaster relief funds and other funds may be exempted from DAF status by the Secretary of the Treasury if they meet specific requirements [4] [5].

In summary:
A DAF is a fund or account at a public charity (not a private foundation or government) that is separately identified by donor contributions and for which the donor or their appointee has advisory privileges over distributions or investments. The sponsoring organization is the legal owner and controller of the DAF, while donors and donor-advisors may provide advice but do not have legal control. There are specific exceptions for certain types of funds, and related persons are defined broadly to prevent circumvention of the rules [1] [5] [6].

Like this answer?

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Sec. 4966 Taxes on taxable distributions

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[2]

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Sec. 4967 Taxes on prohibited benefits

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Sec. 4958 Taxes on excess benefit transactions

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Notice 2006-109

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IRS Proposed Regulations REG-142338-07

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Instructions for Schedule D (Form 990) (12/2024)

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Based on the sources, the question is whether an **organization** (not an individual) can serve as the donor-advisor with advisory privileges over distributions or investments from a donor-advised fund (DAF) that it establishes at a third-party community foundation (the sponsoring organization).

Research

Statutory and Regulatory Framework

Definition of Donor-Advised Fund and Donor-Advisor

Section 4966(d)(2)(A) of the Internal Revenue Code and the proposed regulations define a DAF as a fund or account:

1. Separately identified by reference to contributions of a donor or donors,
2. Owned and controlled by a sponsoring organization,
3. With respect to which a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor [1].

The **proposed regulations** further clarify:

- The term "donor-advisor" means a person appointed or designated by a donor to have advisory privileges regarding the distribution or investment of assets held in a fund or account of a sponsoring organization. "Person" is defined by reference to section 7701(a)(1), which includes individuals, trusts, estates, partnerships, associations, companies, or corporations [2].

Can an Organization Be a Donor-Advisor?

- The proposed regulations explicitly state that a "donor" is any person described in section 7701(a)(1) that makes a contribution to a fund or account of a sponsoring organization, other than a contributor that is a governmental unit described in section 170(c)(1) or a public charity described in section 509(a)(1), (2), or (3) (other than a disqualified supporting organization) [2].
- "Person" under section 7701(a)(1) includes corporations and other organizations, not just individuals.

The regulations do not restrict the appointment of a donor-advisor to individuals only. Instead, they use the term "person," which, by statutory definition, includes organizations.

Advisory Privileges

- Advisory privileges are defined as the ability to provide nonbinding recommendations regarding distributions or investments from the DAF, and these privileges can be held by any donor or donor-advisor, which, as established, can be an organization [2].

Examples and Guidance

- The regulations and examples focus on individuals in most illustrations, but the underlying definitions are broad and inclusive of organizations as "persons."
- There is no explicit prohibition or limitation in the Code, regulations, or IRS guidance that would prevent an organization from being appointed as the donor-advisor, provided it is not a governmental unit or a public charity excluded by the regulations.

Additional Considerations

- The **IRS Form 990 Schedule D instructions** also use the term "person" and do not limit donor-advisors to individuals [3].
- The **PLR 200150039** confirms that donor-advised funds are not treated as separate legal or trust accounts of each donor-advisor, but as commingled accounts of the sponsoring organization, and that the sponsoring organization must have ultimate authority and control. This does not preclude an organization from being a donor-advisor, as long as the sponsoring organization retains ultimate control [4].

Conclusion

Yes, an organization (as opposed to an individual) can be appointed as the donor-advisor with advisory privileges over distributions or investments from a DAF it establishes at a third-party community foundation, provided the organization is not a governmental unit or a public charity excluded by the regulations. The statutory and regulatory definitions of "donor" and "donor-advisor" both use the term "person," which includes organizations under section 7701(a)(1). There is no IRS rule or guidance that restricts donor-advisors to individuals only. The key requirement is that the sponsoring organization must retain ultimate authority and control over the DAF, and the advisory privileges must be nonbinding [2].

If the organization is a public charity or governmental unit, it may be excluded from being treated as a "donor" for these purposes, and thus may not create a DAF as defined. Otherwise, an organization can serve as its own donor-advisor.

Like this answer?

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Sec. 4966 Taxes on taxable distributions

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IRS Proposed Regulations REG-142338-07

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Instructions for Schedule D (Form 990) (12/2024)

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PLR 200150039

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