



**The Planned Giving Course**  
**Session 4: Gifts with External Control**

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**Charitable Giving Vehicles with External Controls**

- **WHAT** they are... and *aren't*
  - Donor-advised funds
  - Private foundations
  - Supporting organizations
  - Charitable lead trusts
- **WHO** uses them and **WHY**
- **WHERE** they're managed

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**Charitable Giving Vehicles with External Controls**

- Charitable giving in America exceeded \$427 Billion<sup>1</sup>
  - \$427.71B total giving in 2018
  - \$292.09B individuals, \$75.86B Foundations, \$20.05B Corporations, and \$39.71B bequests
  - ~2.1% of GDP
- Use of charitable giving vehicles<sup>2</sup>
  - 19% of HNW family's use a giving vehicle
    - 75% of HNW philanthropist with a giving vehicle have a charitable plan
  - 49% of HNW philanthropist have a charitable plan

Sources:  
<sup>1</sup> <https://givingusa.org/tag/giving-usa-2018/>  
<sup>2</sup> <https://scholarworks.iupui.edu/bitstream/handle/1805/17667/high-net-worth2018.pdf>  
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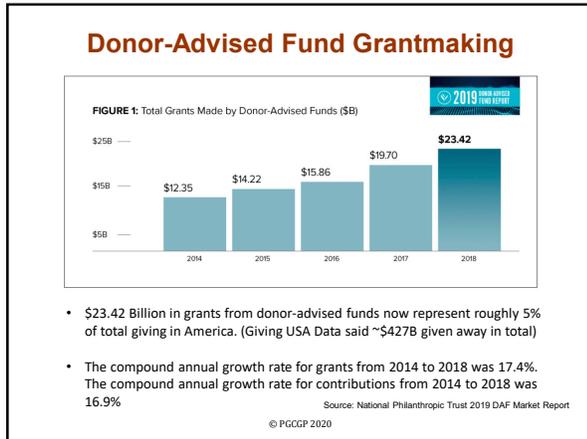
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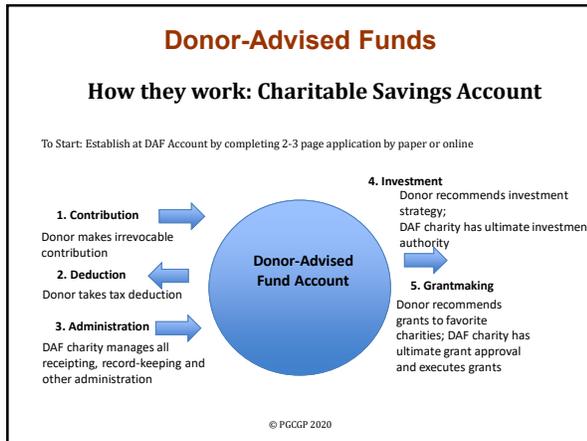
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### Donor-Advised Funds

KEY FEATURE	Donor-Advised Funds
Start-up time/cost	Immediate; None
Ongoing cost/fees	Administrative and investment management fees
Tax deduction	60% AGI cash; 30% AGI stock or property
Valuation of gifts	FMV for most asset types
Required payout	None
Privacy	Can have complete anonymity
Administrative responsibility	Grant recommendations
Perpetuity	Varies
Governance	Name advisors and successors; no Board
Grant and Asset Control	Can recommend, but charity makes all final decisions

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**Donor-Advised Funds**

Who uses them

- Individuals
- Families
- Private Foundations
- Charities
- Corporations

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**How does your organization think about Donor-Advised Funds?**

- Have you received a grant in past from a DAF?
- Did you thank the donor who recommended the grant? Or the sponsoring charity?
- What information did you collect about the DAF account and the end donor?
- How did enhance or minimize your donors connection to your charity?

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**How does your charity work with Donor-Advised Funds?**

1. Ask your donors what vehicles they use to administer their giving like a DAF
2. Track donor-advised gifts in your CRM database
3. Ask for multi-year grants or establish a grant agreement with sponsoring charity
4. Update your Guidestar and Charity Navigator records
5. Use a donor-advised fund to accept illiquid and complex assets for your institution
6. Update your website to reflect that you can DAF Grants – DAF Widget tool
7. Better work with allied professionals around proactive charitable planning strategies and tools

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### Ethics on Donor-Advised Funds?

- How do you know when to say 'NO' to a Donor-advised Fund gift?
- Is the grant to fulfill a personal pledge?
- Does the donor receive any personal benefit from the grant from their DAF?
- If a donor is using their DAF to pay for tickets at a GALA, what do you do?

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### Private Foundations

- Definition: *a tax-exempt organization recognized under Section 501(c)(3) of the Internal Revenue Code formed and controlled by a donor or group of donors for the purpose of distributing money to charitable organizations or individuals*
- Tax Reform Act of 1969
- Treasury Report to Congress on SOs and DAFs

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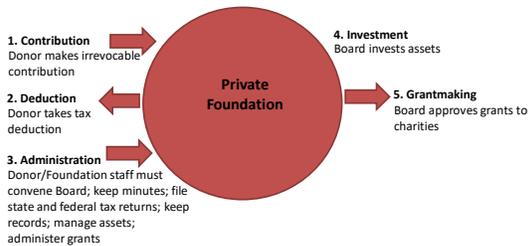
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### Private Foundations

#### How they work

Create corporation/trust with bylaws and articles of incorporation; apply to IRS for tax-exempt status



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### Private Foundations

Who uses them

- Individuals
- Families
- Operating Foundations
- Corporate Foundations

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### Private Foundations

Aggregate Fiscal Data of Foundations in the U.S. 2014

Organization Type	No. of Foundations	Total Giving	Assets	Gift Received
Independent	79,489 <small>92%</small>	\$44,128,388,767 <small>70%</small>	\$703,997,376,843 <small>82%</small>	\$34,859,690,975 <small>60%</small>
Operating	3,451 <small>4%</small>	\$6,167,110,874 <small>12%</small>	\$43,893,086,557 <small>5%</small>	\$7,526,550,213 <small>14%</small>
Corporate	2,468 <small>3%</small>	\$5,508,251,597 <small>9%</small>	\$27,799,317,937 <small>3%</small>	\$5,011,506,035 <small>9%</small>
Community	795 <small>1%</small>	\$6,989,857,606 <small>11%</small>	\$84,271,432,910 <small>10%</small>	\$8,595,243,675 <small>16%</small>

Source: <http://data.foundationcenter.org/>  
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### Private Foundations (comparison)

KEY FEATURES	Private Foundations	Donor-Advised Funds
Start-up time/cost	3+ Months; Substantial (legal fees)	Immediate; None
Ongoing cost/fees	Legal, administrative, investment management fees	Administrative and investment management fees
Tax deduction	30% AGI cash; 20% AGI stock or property	50% AGI cash; 30% AGI stock or property
Valuation of gifts	FMV for public stock held long-term; cost basis for all other gifts	FMV for assets held long-term
Required payout	5% of net assets, regardless of assets earned, on average 5-10% of assets	None
Privacy	File detailed public tax return	Can have complete anonymity

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**Private Foundations (comparison)**

KEY FEATURES	Private Foundations	Donor-Advised Funds
Administrative responsibility	Asset management, record-keeping, granting, file tax returns, maintain board minutes, etc.	Grant recommendations
Perpetuity	Yes	Varies
Governance	Select Board with no restrictions	Name advisors and successors; no Board
Grant and Asset Control	Complete control (subject to self-dealing rules)	Can recommend, but charity makes all final decisions

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**How does your organization think about Private Foundations?**

- How do leverage tools in the space like Candid to prospect for PF grantmakers?
- How do handle and manage multi-year grants or grant agreements?
- What are the best practices in securing additional ongoing support from Private Foundation donors?

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**Ethics on Private Foundations**

- When do you say 'NO' to a private foundation grant?
- Is the donor or any disqualified persons receiving any personal benefit from the grant? Is it to fulfill a personal pledge?
- If a donor is using their DAF to pay for tickets at a GALA, what do you do?
- If a donor is paying for an auction item from their Private Foundation, what do you do?

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### Supporting Organizations

- Definition: a public charity that operates under Internal Revenue Code 26 USCA 509(a)(3) to make grants to or perform the operations of a charity.
- Three types of SOs
  - Type 1: parent-subsidiary relationship
  - Type 2: brother-sister relationship
  - Type 3: functionally-integrated and "other"
- Charities that manage SOs
- 1969 Tax Reform Act; PPA 2006
- Treasury Report to Congress on SOs and DAFs 2011

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### Supporting Organizations

#### How they work

Create corporation/trust with bylaws and articles of incorporation; apply to IRS for tax-exempt status

**1. Contribution**  
Donor makes irrevocable contribution

**2. Deduction**  
Donor takes tax deduction

**3. Administration**  
Parent charity convenes SO Board; keeps minutes; files state and federal tax returns; keeps records; manages assets; administers grants; Donor appoints some Board members, but SO charity appoints majority of membership (Type I)

**4. Investment**  
Board/donor recommends investment strategy; SO charity significant involvement in approving investments

**5. Grantmaking**  
Board/donor recommends grants to favorite charities; SO charity has significant involvement in approving grants

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### Supporting Organizations

Who uses them:

- Individuals
- Families
- Foundations
- Corporations

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### Supporting Organizations

**The Supporting Organization Marketplace<sup>1</sup>**

Supporting Organizations*	
Number of SOs	21,095
Charitable Assets	\$371.49B

<sup>1</sup>2011 data in Department of the Treasury's Report to Congress on Supporting Organizations and Donor-Advised Funds

- Approx. \$22.46B in contributions in 2006
- Approx. \$11.54B in grants in 2006

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### Supporting Organizations (comparison)

KEY FEATURES	Supporting Organization	Private Foundations	Donor-Advised Funds
Start-up time/cost	3+ Months; Substantial (legal fees)	3+ Months; substantial (legal fees)	Immediate; None
Ongoing cost/fees	Legal, administrative, investment management	Legal, administrative, investment management fees	Administrative and investment mgmt fees
Tax deduction	50% AGI cash; 30% AGI stock or property	30% AGI cash; 20% AGI stock or property	50% AGI cash; 30% AGI stock or property
Valuation of gifts	FMV for assets held long-term	FMV for public stock held long-term; cost basis for all other gifts	FMV for assets held long-term

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### Supporting Organizations (comparison)

KEY FEATURES	Supporting Organization	Private Foundations	Donor-Advised Funds
Required payout	None, but must demonstrate ongoing support for named public charity or cause	5% of net assets, regardless of assets earned	None
Privacy	File detailed public tax return	File detailed public tax return	Can have complete anonymity
Administrative responsibility	Asset management, granting, file tax returns, maintain board minutes, etc. with significant input and assistance from public charity	Asset management, record-keeping, granting, file tax returns, maintain board minutes, etc.	Grant and investment recommendations

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**Supporting Organizations (comparison)**

KEY FEATURES	Supporting Organization	Private Foundations	Donor-Advised Funds
Perpetuity	Yes	Yes	Varies
Governance	Select Board; majority must be independent non-family named by charity	Select Board with no restrictions	Name advisors and successors; no Board
Grant and Asset Control	Can recommend, but charity has significant input in all final decisions	Complete control (subject to self-dealing rules)	Can recommend, but charity makes all decisions

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**What do you know about Supporting Organizations?**

- Have you ever received a gift from SO?
- How do you find SO?
- Other questions?

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**Charitable Lead Trusts**

- Definition: a trust that pays either a fixed amount or a percentage of the trust's value to charity each year for a fixed term or for the life of the donor or another individual after which the remainder passes to or in trust for designated beneficiaries.
- 1969 Tax Reform Act

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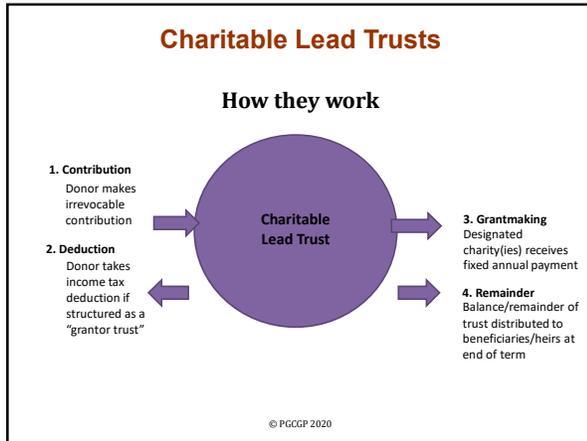
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- ### Charitable Lead Trusts
- Who uses them: Individuals
  - Considerations
    - Expense
    - Tax implications
    - Beneficiaries (charitable and ultimate)
    - Trustees and their responsibilities
    - Privacy
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- ### Giving while living with Charitable Lead Trusts
- The 'Current' Charitable Lead Trust Opportunity**  
Grantor Charitable Lead Annuity Trust
- Current income tax deduction for present value of future charitable gifts, bunching, giving while living
  - 7520 Rate at historic Low - 0.4% in September 2020
  - Reversionary trust
  - Annual Giver
  - Variable income...but spike in income
  - Works best in state like CA or NY where States provide state charitable income deductions (PA does not, will only save on federal tax dollars)
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**How have you worked with you donors for more complex charitable planning tools like a CLT?**

- Do you work with the donors attorney?
- How do you engage or prospect to your donors trusted advisors (financial, accounting, and estate professionals)?
- How does CLT help your organization today versus other planned giving tools?

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**Choosing the Best Charitable Giving Vehicle**

- Understand donors' motivation to give
- What's the right time, what's the right asset, what's the right vehicle
- Compare the financial and tax impacts of each vehicle—to both donor and charity
- Know the investment/return goals of the philanthropic capital
- Weigh the importance of legacy, family involvement and existing in perpetuity
- Determine who (advisors, etc.) to involve

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**Choosing the Right "Home" for a Charitable Giving Vehicle**

If managed at a charity:

- Look at a charity's mission, point of view and policies
- Assess board and other leadership
- Understand specialties and limitations (e.g. international grant-making, illiquid asset acceptance, philanthropic advisory services, perpetuity)

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**Choosing the Right “Home” for a Charitable Giving Vehicle**

If not:

- Assess cost of professional consultants or advisors
- Evaluate other possible succession and contingency plans before you start

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**Ethics of charitable giving vehicles with external controls?**

- Why do these types of vehicles have additional compliance and scrutiny from the IRS versus a direct contribution to charity?
- How do you communicate with donors who use vehicles with external controls?
- How do you return a gift or work with a sponsoring charity or private foundation when you have a question around too much personal benefit?

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**Thank You!**

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