

Wendy Nacht
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LEGAL PROCEEDINGS DIVISION
PUBLICATION & REGULATIONS BRANCH

MAR 14 2017

Re: Notice 2017-73

I believe that a transfer of funds by a private foundation to a DAF is consistent with Section 4942 and should be treated as a "qualifying distribution".

First, private foundations use DAF's for many reasons. One very important one is to have the ability to give anonymously. Other reasons include convenience and efficiencies of DAF's that cannot be matched by private foundations when making a significant number of relatively small grants, and to have the flexibility to give with a vehicle other than a private foundation, when for various reasons a private foundations believes that to be appropriate. Last, a private foundation may use a DAF to satisfy distribution requirements when it believes that it can best meet its charitable goals through current investment and future grants.

Second, changing the rules of the game for existing private foundations is unfair. Decisions were made and plans formulated based on the existing set of regulations. Existing private foundations should either not be subject to new rules restricting qualifying distributions to DAF's or existing private foundations should not be subject to the rules with regard to their current asset base.

Third, tax benefits to donors of DAF's are more favorable than to donors of private foundations as there is no tax on income. Therefore, it seems senseless to prohibit grants from private foundations to DAF's from counting towards distribution requirements when the same outcome could be achieved with a direct donation to a DAF. Despite this disadvantage, certain donors prefer private foundations for various reasons, such as investment choices, lower administrative costs, and emotional reasons.

Private foundations have had a tremendous benefit to society, domestically and internationally. How much "poorer" would the world be without the Carnegie, Rockefeller, and Gates foundations, let alone the countless smaller foundations that frequently focus on niche needs and smaller projects in their own communities and elsewhere. There should be a very compelling reason to make private foundations less attractive to donors when they have served this country and the world so well. I don't believe there is one. Changing the distribution requirement rules would be a huge mistake.

Very truly yours,


Wendy Nacht