

When a donor’s giving situation becomes complex, a sophisticated legal tool may be advantageous. Useful solutions exist for the following situations:

1. When a donor wishes to give, or set aside, from income or assets at a faster rate than he/she can assign gifts to charitable organizations; often this occurs when a donor wishes to reduce taxable income in a given year but make charitable donations in a subsequent year;
2. When a donor is giving a complex gift such as closely-held stock, appreciated assets, collectibles, real estate, etc. that requires liquidation prior to final gifting; and
3. When a donor desires professional services to support his/her giving, either fulltime or part-time staff, or a philanthropic consultant (see our *Giving Insight: Philanthropic Consultant or Staff* for more on the pros and cons of these two approaches).

SOLUTIONS

Two primary tools exist to help solve these issues. The traditional solution is the private foundation, a “personal” nonprofit organization to which a donor gives and from which one subsequently makes grants. The donor-advised fund is a much newer tool which has become popular in the past decade or so. This instrument is essentially an account, much like a bank account, at a public charity (the “sponsoring organization,” usually a community foundation or affiliated with a major investment company) where a donor may contribute assets and subsequently advise the sponsoring organization to make grants to selected charities. The assets may be liquid or illiquid depending on the sponsoring organization’s rules. Each of these tools is subject to extensive regulations (which may change from time to time—2006 in the case of donor-advised funds), and has its advantages.

COMPARISON

The primary function of private foundations and donor-advised funds is the same—to hold assets in an intermediary organization prior to final gifting to a public charity—but there are many important differences. The following table compares the two instruments, highlighting the key differences.

**COMPARISON OF
PRIVATE FOUNDATIONS & DONOR-ADVISED FUNDS**

	Private Foundations	Donor-Advised Funds
Role of donor	Decision maker (possibly with other trustees)	Advisor
Control	Control of investments, tax issues, employees, grants	Limited by law and “agreement” with sponsoring organization
Grantees	IRS approved charities & needy persons & international entities, subject to regulations	IRS approved charities & international entities, subject to regulations
Percent of adjusted gross income allowable for cash charitable tax deduction	30%	50%
Reporting to IRS	Extensive; must file Form 990-PF	None for donor (sponsoring organization does it)
Administration, grant research, reporting	Extensive, required	None; done by sponsoring organization

	Private Foundations	Donor-Advised Funds
Advance personal agenda	Yes	If sponsoring organization concurs (some won't facilitate gifts deemed to be outside granting guidelines)
Anonymity	No, Form 990-PF is a public document & lists all grants	Available at donor's option
Start-up costs	Significant	Usually none
Cost	Significant (but percentage depends on total assets)	Minimal (spread across many donors)
Excise taxes	Paid on annual net investment income	None
Use one's own investment advisor	Yes	Maybe, depends on sponsoring organization's rules (likely not possible)
Hire staff	Yes	No
Hire family members	Yes	No
Engage consultants	Yes	Yes
Provide scholarships to individuals	Yes, subject to regulations	No
Switching tools	Can convert or contribute to a donor-advised fund	Can contribute to a private foundation if "expenditure responsibility" is exercised, however the distribution is taxable ¹
Suggested asset size ²	> \$2.5 - 5 million	Up to \$2.5 - 5 million
Guide on when to use	When staff are necessary	When no staff required

DONOR-ADVISED FUND OPTIONS

This option is offered by several major investment companies, including Charles Schwab, Fidelity, and Vanguard. Hundreds of smaller, more locally oriented sponsoring organizations exist across the nation. See our *Giving Insight: Foundations Offering Donor-Advised Funds* for a list of providers with which we are familiar, many of which have an orientation towards faith-based donors. The National Christian Foundation is one such option; it is a very large sponsor of donor-advised funds offering numerous, related professional services. CEC can help select a suitable provider and establish a fund.

PRIVATE FOUNDATIONS

This option is normally set up by an attorney specializing in nonprofit matters. Various resources exist to support private foundations including outsourcing options and a number of web-based tools to minimize administrative burdens. Foundation Source (www.foundationsource.com) is a useful resource. CEC can guide a donor's legal counsel to ensure that objectives are achieved in establishing a private foundation.

¹ Legal counsel should be sought prior to exercising this option.

² Circumstances and needs vary widely, and the numbers proposed here are general guides. Donors should consult with their legal and financial advisors regarding their situation. We have seen many exceptions to these proposed guidelines, including a donor-advised fund over \$100 million, and a private foundation under \$250,000.

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