

WEBINAR

Charitable Giving Tax Benefits 101: **FAST FACTS**



Choosing the right charitable giving vehicle(s)—whether a private foundation, a donor-advised fund (DAF), or a fiscal sponsorship—can meaningfully affect a donor’s tax outcome, grantmaking flexibility, and philanthropic impact. **Foundation Source’s Chief Legal Officer Jeffrey D. Haskell** recently presented a webinar covering the fast facts on charitable giving and tax benefits. Highlights from that presentation follow.



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Understanding Charitable Giving Vehicles

What is the difference between a private foundation, a donor-advised fund, and a fiscal sponsorship?

All three are used to support charitable activity and can provide donors with a tax deduction, but they differ significantly in structure, control, and use cases.

A private foundation is an independent 501(c)(3) legal entity with its own federal tax ID. The donor can sit on the board and retain direct control over investment decisions, grantmaking, and foundation operations. A DAF, on the other hand, is a giving account housed within a public charity—the sponsoring organization legally controls the assets, though it typically follows the donor’s recommendations. A fiscal sponsorship is an arrangement where an established public charity agrees to accept donations for a charitable project run by a non-501(c)(3) organization, allowing donors to make tax-deductible contributions to work that otherwise would not qualify.

When would a donor use a fiscal sponsorship instead of a foundation or DAF?

Fiscal sponsorship typically arises from necessity rather than strategy. For example, a donor may want to support a particular effort only to discover that the organization doing the work doesn’t have 501(c)(3) status. A fiscal sponsorship allows donors to still receive a tax deduction while supporting that work.

The sponsored organization—often a charity whose IRS recognition is pending, a foreign organization, or a non-charitable group pursuing a charitable program—benefits by being able to attract tax-deductible donations before obtaining its own exempt status. Importantly, a donor cannot unilaterally establish a fiscal sponsorship; the arrangement must be in place between the fiscal sponsor and the sponsored organization before donors can contribute. Sponsors also charge fees for their services, so in some cases it may be a last resort when other options aren’t viable.

Does a fiscal sponsor guarantee that funds will reach the intended recipient?

No. The fiscal sponsor must retain discretion and control over the funds—a requirement to avoid what the IRS calls “earmarking”—in order for contributions to be tax-deductible. This means that if the sponsored organization misapplies funds or becomes insolvent, the sponsor has the authority to redirect those funds to another entity capable of carrying out the charitable program. While fiscal sponsors typically distribute funds to the intended organization absent any issues, they are not legally obligated to do so. The same caveat applies to donor-advised funds. Only direct giving or giving through your own private foundation provides that level of certainty.

Tax Deductibility and AGI Limits

Do the different AGI percentage caps really matter in practice?

Less often than people think. While public charities (including DAFs and fiscal sponsors) do offer higher AGI caps than private foundations, in practice it's relatively rare for a donor's contributions to actually exceed their applicable AGI limit in a given year. And even when they do, excess deductions can generally be carried forward for up to five years.

Donors who want to maximize deductions can also “stack” giving—contributing up to the allowable limit to a private foundation, then directing additional gifts to a public charity to take advantage of that vehicle's higher cap.

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Can a donor contribute to both a private foundation and a donor-advised fund in the same year?

Yes, and this is a strategy some donors use intentionally. For example, cash contributions are subject to a 60% AGI cap when made to a public charity, whereas the cap for a private foundation is 30%. A donor giving stock typically faces a 20% cap for a foundation and 30% for a public charity. By giving to both vehicles, a donor can utilize the applicable limits for each, up to the total allowable thresholds.

What is the tax treatment of non-cash gifts—particularly appreciated assets—when donating to a private foundation versus a public charity?

The deductibility of non-cash gifts depends on both the type of asset and the type of recipient organization. For gifts of non-cash assets like real estate, tangible personal property (such as artwork), or privately held stock to a private foundation, the deduction is typically limited to cost basis. The only exception is that a donation to a private foundation of “qualified appreciated stock”—publicly traded stock held for more than one year—would entitle the donor to a fair market value deduction.

For gifts to a public charity (including a DAF), the rules are more favorable for certain asset types. Long-term capital gain property may qualify for a fair market value deduction, depending on the charity's intended use of the asset.

In any event, after determining the deductible amount, the AGI percentage caps come into play to determine how much of the deduction can be used in the current year.



Grantmaking, Control, and Special Situations

Can a foundation make grants to individuals? What are the limitations?

Yes. Private foundations can make grants directly to individuals—including scholarships, hardship grants, and emergency assistance—provided the foundation follows IRS rules for such programs. The foundation designs and controls the eligibility criteria and selection process, giving it significant flexibility.

One important restriction: a foundation cannot make a grant to an “insider” (technically “disqualified person”) or the family member of an insider. Any such grants would constitute self-dealing—a serious prohibited transaction with IRS penalties owed personally by the insider involved. However, grants can be made to individuals who are known to board members or staff, as long as the selection process reflects a sufficiently broad charitable class and is not based on personal relationship alone.

Can foundations make grants to foreign organizations?

Yes, but the process involves additional compliance steps. The foundation must either (1) exercise Expenditure Responsibility—a multi-step process involving pre-grant due diligence, a written grant agreement, separate tracking of grant funds by the grantee, annual progress reports back to the foundation, and a special schedule on the foundation’s 990-PF—or (2) make an Equivalency Determination, concluding in good faith that the foreign organization would qualify as a U.S. public charity.

The equivalency determination route ultimately can be easier administratively (it avoids mandatory restrictions on how the grantee uses funds), but it requires significant upfront due diligence and may not always be achievable if the organization doesn’t meet U.S. public charity standards. When based on a written opinion from a qualified tax practitioner (attorney, CPA, or enrolled agent), the determination is accorded special credence by the IRS under the “special rule” and generally needs to be renewed every two years.

Does a foreign grantee need to be registered as a charity in its home country for an equivalency determination?

No—this is not a requirement under U.S. tax law. That said, if the organization is recognized as a charity by its home country, that is generally a favorable indicator that the equivalency determination process will succeed. It typically means the organization is obligated by local law or its organizational documents to apply its funds for charitable purposes.

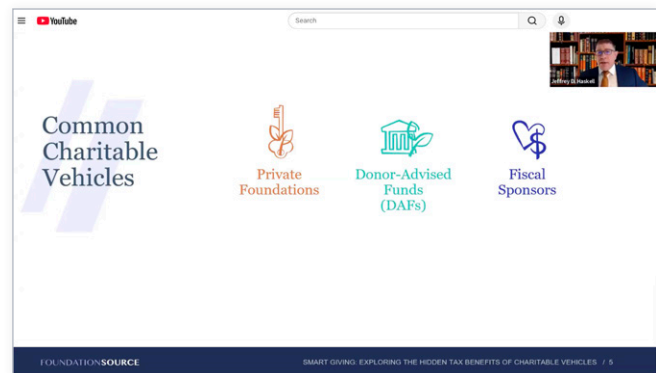
Does it make sense for a foundation to also have a donor-advised fund?

In many cases, yes. Some foundations use a DAF account alongside their foundation operations for specific strategic or privacy reasons. For instance, a foundation’s board might want to support certain charitable causes that could be considered controversial. Rather than have those grants appear on the foundation’s publicly available 990-PF alongside its other grantmaking, the foundation might establish a DAF account and make grant recommendations from the DAF to avoid any potential controversy.

Can a donor put real estate into a DAF or fiscal sponsorship?

Generally, yes, but with important caveats. Most sponsoring organizations and fiscal sponsors will liquidate illiquid assets—including real estate—rather than hold them. Many DAF sponsors have gift acceptance policies that require them to work with a third party to sell the property first, so what actually flows into the DAF account is the cash proceeds from the sale, not the real estate itself. Donors considering real estate contributions should review the sponsoring organization’s gift acceptance policies before proceeding, and be aware that processing fees for illiquid gifts may apply.

This is a condensed, edited version of the conversation. Get full insights by watching the entire presentation [here](#). For more tax and legal insights, [check out our blog](#).



ABOUT FOUNDATION SOURCE

Foundation Source empowers people and companies to create a better world through philanthropy. We support more than 27,000 charitable organizations with innovative technology backed by philanthropic expertise.

HAVE A QUESTION?

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