Initiative to
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Charitable
Giving

Myth v. Fact on Charitable Giving Reform

Myth: The current tax laws encourage all Americans to make charitable donations to causes they support.

Fact: About 90% of Americans have little tax incentive to make charitable gifts. This is in sharp contrast to the tax benefits given to the wealthiest Americans, which can be worth as much as 74% of the donation.

Myth: Private foundations do not need new rules because they are already required to spend 5% on charities annually.

Fact: While private foundations are required to spend 5% each year, there is no requirement for this spending actually to go to charities. Indeed, under current law, the entire 5% could be spent on administrative costs of the foundation, including for salaries and travel expenses of family members. In addition, the 5% could go to a donor-advised fund (DAF), where it awaits future advice from the foundation and may not be spent for many years—there's currently no time limit.

Myth: These proposals punish small family foundations by forbidding a foundation from paying compensation or travel expenses of a family member.

Fact Our reform proposals still permit the reasonable compensation and foundation related travel expenses of family members, but just not as part of meeting the payout requirement. When compensation and travel expenses of family members count toward the payout requirement, this often results in less money going to charities. Ultimately, these payments to insiders should not be treated as the equivalent of a grant to a charity. Reforms are needed to ensure that the rules are effectively fulfilling their intended purpose – making sure funds are going towards charitable use.

Myth: Donor-advised funds (DAFs) give billions of dollars to charity each year, so the growth in DAFs must mean that more money is going to charities.

Fact: There is no evidence that the growth of DAFs has led to more charitable giving. Rather, the evidence suggests that DAFs mainly replace direct giving to working charities. According to Giving USA, charitable giving by individuals has remained remarkably constant for the past 40 years at approximately 2% of disposable income. In addition, while individual giving has remained largely constant, there has been a substantial shift in this giving toward private foundations and DAFs and away from direct giving to charities. In 1991, when the first commercial DAF began operating, less than 5% of charitable giving went to DAFs and private foundations and 95% went directly to public charities. In 2019, 28% of individual giving went to private foundations and DAFs, a 460% increase compared to 1991. This picture is troublesome, as DAF and private foundation assets have been growing each year at double digit rates tax free, while many charities are starved for resources.

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Myth: DAFs do not need new rules because they pay out at significantly higher rates than private foundations, often paying out as much as 20% on an annual basis.

Fact: This 20% figure is very misleading. The 20% figure uses a methodology that overstates the actual payout. But even more importantly, this payout rate is an average across DAF sponsors and individual DAF accounts. A closer study of DAF sponsors shows that 24% of all DAF sponsors distribute less than 5% of their assets each year. In addition, recent studies of individual DAF accounts show that there is great disparity among individual DAF accounts with some paying out close to 100% each year, while others pay out nothing. A 2022 DAF report by the Donor Advised Fund Research Collaborative found that more than one-third of the DAF accounts studied paid out less than 5% over a 4-year period. This report follows a 2021 study that analyzed DAFs at Michigan community foundations, which found that over 50% of the accounts distributed less than 5% of their assets in 2020, with 35% not distributing any money that year. Lastly, the 20% payout figure includes amounts distributed to other DAFs. According to a 2017 Economist magazine analysis of three of the biggest DAF providers, their largest recipient of DAF distributions was another DAF sponsor. These DAF-to-DAF transfers boost payout rates without providing any benefit to working charities.

Myth: These DAF proposals tell donors what to do and will unduly pressure them to give before they have had time for thoughtful reflection.

Fact: Under these reforms, donors still maintain the freedom to give to whom they want to and when they prefer. Our proposal simply provides two options: One option allows fifteen years for payout, which provides ample time for donors to engage in thoughtful reflection about the distribution of DAF funds. However, if a donor wants more than 15 years to distribute their DAF contribution, the proposal's second option provides that donors can choose more time for distribution by foregoing the income tax deduction until the donated funds are distributed to a charity. Under this second option, donors still benefit from the relief of the tax on the capital gains and receive estate tax benefits at the time of the donation to the DAF.

Myth: These proposals would disincentivize donors from giving via DAFs.

Fact: These proposals maintain what donors most value about DAFs – including significant up-front tax benefits – while also encouraging distributions to charities within a reasonable period of time. Under our proposals, donors will continue to benefit from the relief of the tax on the capital gains and receive estate tax benefits for DAF donations. They can also choose whether the income tax deduction is aligned with the distribution from the DAF or is allowed immediately upon contribution to the DAF, so long as the DAF is committed to distribution of the contribution and earnings within 15 years.

Myth: These proposals prevent DAFs from serving as rainy day funds for charities.

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Fact: With a 15-year payout term or with the aligned benefit rule – which allow for DAF funds to be set aside for an indefinite period of time – our proposals leave ample opportunity for DAFs to serve as rainy day funds. The problem with current law is that the funds may never get to charities.

Myth: DAFs increased their giving during the current economic and health crisis, thus proving that DAF reform is not necessary.

Fact: We commend all who have stepped up to provide crucial support to charities, especially during these challenging times. However, the fact that more money is flowing through DAFs does not mean that DAFs are increasing their overall giving relative to the amount that they have under management. The latest publicly available data shows that roughly $160 billion remain in DAFs, which contribute to an estimated $1.2 trillion that are sitting on the sidelines in both private foundations and DAFs without any assurances these funds will ever be made available for charitable use.

Myth: DAFs are a charitable giving tool commonly used by all Americans, thereby "democratizing giving."

Fact: DAFs are predominantly used by the wealthiest Americans. The average DAF donor is a member of the wealthiest one-tenth of one percent of Americans, according to a report by the Institute of Policy Studies. The report also shows that the average donor has an income of more than $1 million. Additionally, the average size of a DAF is over $160,000. Contrary to the myth, DAFs are primarily used by wealthier Americans to achieve tax benefits while still maintaining effective control of the donated assets.

Myth: The proposed reforms threaten donor privacy.

Fact: Our proposals do not change existing privacy protections. Donors can continue to make anonymous donations through DAFs.

Myth: Other proposals – such as a mandated annual 10% payout requirement for DAFs and private foundations for the next three years – are more viable solutions to accelerating funding to charities.

Fact: These other proposals are short-term solutions to a long-term problem. Our proposals provide more permanent solutions to our broken system to ensure money gets to charities – and not just to intermediary organizations – in a more timely fashion.