

**WRITTEN SUBMISSION TO THE BUSINESS INCOME TAX WORKING GROUP
OF THE SENATE FINANCE COMMITTEE
REGARDING POTENTIAL FUTURE TAX REFORM LEGISLATION**

April 15, 2015

Donor-Advised Funds

We applaud the Senate Finance Committee for developing working groups to examine different aspects of the Internal Revenue Code, with the goal of submitting proposals for comprehensive tax reform. We share your goal of developing a simpler, fairer and more efficient tax code for individuals, businesses, and tax-exempt organizations. We appreciate the opportunity to provide the Business Income Tax working group with information on donor-advised funds.

Donor-advised funds, as described in section 4966 of the Internal Revenue Code, are funds owned and controlled by public charities (“sponsoring organizations”), and have become an important part of charitable giving. Sponsoring organizations of donor-advised funds include community foundations, religious groups, national organizations, and other public charities. As sponsoring organizations of the three largest national donor-advised fund programs, which are each currently among the 15 largest grant-makers in the country, we write to provide our perspective on the critical role donor-advised funds play in charitable giving.

Donor-advised funds have been an important part of American philanthropy for more than 80 years and continue to be vehicles for simple, flexible and cost-effective charitable giving. Donor-advised funds provide important benefits to charitable organizations across the country, including:

- Simplifying and reducing costs of gift processing, charitable grant-making and recordkeeping;
- Enhancing oversight and compliance by ensuring that contributions and grants comply with all applicable federal legal requirements and that funds are directed to qualified charities for charitable purposes; and
- Helping to encourage greater charitable giving, smoothing charitable giving during times of economic recession, and providing a ready source of funds for disaster relief.

As you consider legislation to reform our tax code, we urge you to preserve the tax treatment of donor-advised funds and treat all charities consistently.

Background

Donor-advised funds have existed since at least the 1930s at the New York Community Trust. Since that time - and especially over the past two decades - donor-advised funds have grown substantially, becoming an increasingly important part of charitable giving.

A donor-advised fund is a separately-identified fund or account at a public charity (the “sponsoring charity”). The Pension Protection Act of 2006 formally defined donor-advised funds within the Internal Revenue Code. A donor who contributes to

a donor-advised fund (or the donor's designee) retains advisory privileges regarding distributions to charitable organizations and investment of the funds. Grants may be recommended to organizations that qualify as public charities under Section 509(a) of the Code (other than non-functionally integrated type III supporting organizations) or to private operating foundations described in Section 4942(j) of the Code. However, the sponsoring charity ultimately has control over grant-making and investment decisions.

Donor-advised funds are maintained by a broad range of sponsoring charities, including community foundations, religious organizations, universities, and operating public charities. Each sponsoring charity must be a qualified tax-exempt charitable organization. Some donor-advised funds are operated by sponsoring charities that focus on a specific geographical region or field of interest. Others, which are commonly called national donor-advised funds because of the geographical breadth of their charitable grant-making activity, operate donor-advised fund programs as their principal activity and are cause and community neutral.

In December 2011, the Treasury Department conducted a study on donor-advised funds and supporting organizations pursuant to a mandate in the Pension Protection Act of 2006. We have long supported the Pension Protection Act's provisions that provided a statutory definition of donor-advised funds and of sponsoring organizations, and included certain penalty provisions to prevent abuses. We believe that the Treasury study supported those policies espoused by the Pension Protection Act that encourage increased charitable giving and prevent abuses.

Donor-Advised Funds Enhance Charitable and Tax Compliance

Donor-advised funds improve charitable giving compliance by bringing expertise, research, and oversight to the philanthropic grant-making processes. Our organizations' grant due diligence processes ensure that only IRS-qualified public charities receive grants. The grant review processes also reduce the potential for recommending donors to receive impermissible private benefits ("more than incidental benefits" as described in Section 4967 of the Code) or to support other non-charitable purposes in connection with grants. In addition, each of our organizations provides donors with research tools to help them identify worthy charitable organizations and to help them avoid mistakes and fraudulent solicitations. When combined, the benefits of our donor-advised fund programs ease the burden on the IRS by improving compliance and centralizing and simplifying the oversight of charitable contributions. Additionally, both contributions and grants are screened for compliance with The USA PATRIOT Act, the Office of Foreign Assets Control's sanctions regimes, Anti-Money Laundering rules, and anti-corruption and anti-fraud regulations.

Donor-Advised Funds Encourage Greater Charitable Giving

Donor-advised funds increase charitable giving generally, and also encourage active grant-making. Donors who have donor-advised funds reported that they increased their charitable giving and recommended grants to a wider range of charitable organizations as a result of their donor-advised funds. Donor-advised funds also add value to recipient charitable organizations by making it easy and cost-efficient to donate gifts of appreciated securities and assets, which can be more difficult or expensive for many charitable organizations to accept on their own. Donor-advised

funds can accept such assets, liquidate them and then send easily processed checks to the recommended charities. In addition, donor-advised fund assets are invested and have potential for appreciation, allowing donors to support longer term grant-making and recommend larger grants to charitable causes over time. Finally, and importantly, donor-advised funds help to smooth charitable giving in times of economic recession, and also serve as a ready source of charitable funds for relief organizations in the event of a natural or other disaster.

Summary

Donor-advised funds appeal to a broad audience of donors, representing a range of economic backgrounds, ages and areas of the country. Donors to our organizations are very engaged philanthropists, no matter the size of their donor-advised fund. Our organizations in combination currently have an average annual distribution rate to qualified recipient charities of 23%¹. Each of our organizations has expressly committed to the IRS to adhere to certain minimum distribution rates, and we have policies in place to ensure that our donors are active philanthropists.

With over 50 years of combined experience in applying best practices to the administration of donor-advised funds, our three charitable organizations are proud to have provided substantial support to charitable causes across the country. As you consider tax reform, we urge you to preserve the tax treatment of donor-advised funds to ensure that these popular vehicles retain their central role in encouraging philanthropy. We stand ready to answer any questions you may have about our policies and practices.

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¹ Current year grants as a percentage of five year rolling average of ending assets