Gilded Giving 2024: Saving Philanthropy from Wall Street

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THE INSTITUTE FOR POLICY STUDIES

The **Institute for Policy Studies** (www.IPS-dc.org) is a multi-issue research center that has been conducting path-breaking research on inequality for more than 20 years.

The **IPS Charity Reform Program** (https://inequality.org/action/charity-reform-initiative/) was founded in 2020 to study the intersection of inequality and philanthropy. We house the Charity Data Lab and we have published numerous reports, including: *Warehousing Wealth: Donor Advised Funds Sequestering Billions in the Face of Growing Inequality*; *Gilded Giving 2022: How Wealth Inequality Distorts Philanthropy and Imperils Democracy; The True Cost of Billionaire Philanthropy: How the Ultra-Wealthy Use Charity to Avoid Taxes and Exert Influence While Taxpayers Foot the Bill; and Fossil Fuel Philanthropy: How Taxpayer-Subsidized Charities Promote Climate Change Disinformation and Stall Urgent Action.*

The **Inequality.org** website (http://inequality.org/) provides an online portal into all things related to the income and wealth gaps that so divide us, in the United States and throughout the world**. Subscribe to our weekly newsletter at Inequality.org or follow us on X and Facebook: @inequalityorg**

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Contents

This Year in Gilded Giving

Philanthropy in America — the transfer of wealth out of private hands for, ostensibly, the benefit of non-profit organizations working for public benefit — has been captured by the wealth preservation industry.

Booming industrial wealth first defined modern American philanthropy, and today, the country's largest philanthropists become wealthier every day from the appreciating value of their stockholdings and unrealized assets. Most of today's mega-rich Americans live off the "buy, borrow, die" philosophy — skimming cash off their pools of wealth and using lines of credit to avoid incurring taxable income — and their philanthropic practices mirror their tactics to accrue, preserve, and defend their wealth.

Financial services advisors understand that by including philanthropy management in their portfolio of services, they can make money *and* generate tax benefits for clients.

How? Wealthy donors use donor-advised funds (DAFs) and private foundations to get tax deductions immediately but maintain control over the disbursement of the money. While law mandates that private foundations must disburse 5 percent of their assets each year, donor-advised funds have no such requirement. Donors are also pioneering the use of financialized instruments such as LLCs, impact investing, and recoverable grants: There are not always explicit charitable tax breaks for these vehicles — though impact investing and recoverable grants can benefit from direct and indirect tax breaks — but they nevertheless carry advantages for both donors and the financial advisors who profit from managing pools of capital. In Bank of America's most recent Study of High Net Worth Philanthropy, the number of wealthy households participating in impact investing had doubled over the past three years, and 40 percent were using that impact investing in place of some or all of their charitable giving.

These choices have made our working charities fragile and over-dependent on fewer donors. This is immediately dangerous for our society.

Over the past decade, the Charity Reform Initiative at the Institute for Policy Studies has tracked the impact of growing inequality and concentrated wealth on philanthropy and the independent sector. In 2014, we described the concept of "top-heavy philanthropy," the troubling phenomenon of declining small- and medium-sized donors against the rise of mega-donors with rarefied giving practices and priorities. We connected this trend to the growing gap between the rich and everyone else — and the rising precarity faced by many working- and middle-class people means that they may no longer be able to give as generously as they had in the past.

The nonprofit sector has gone from being broadly supported by many donors of all classes (think March of Dimes or Easter Seals) to becoming more and more dependent on the wealthiest donors. This poses several perils for the independent nonprofit sector, including mission drift to accommodate the priorities of wealthy donors and diminished investment in cultivating a small-dollar donor base. And as more donations flow anonymously through donor-advised funds, some nonprofit charities are completely left out of the process because they don't have connections to DAF account holders.

None of these changes have happened overnight. Over the last five decades, since the last time Congress meaningfully structured our philanthropic system, wealth and power has gradually concentrated in America. The 2017 Tax Cuts and Jobs Act accelerated this trend by raising the standard taxpayer deduction and further reducing the number of households that itemize charitable deductions on their tax returns to now fewer than 10 percent. The Lilly School of Philanthropy estimates this led to a $20 billion reduction in the amount of dollars directed to charity the following year.

In other words, our system that effectively classifies pools of capital under management as charities is shortchanging groups on the ground doing actual charity work. When Congress formed our laws in the first place, they didn't intend for our sector to look this way.

Key Findings

The share of giving to intermediaries keeps getting bigger.

- **Donor-advised funds (DAFs) and foundations together take in 35 percent of all individual giving in the United States.** If these two types of intermediaries continue to grow at the rate they have for the past five years, **by 2028, they will take in half of all U.S. individual giving.**

- With each passing year, **an additional 2 cents of each dollar donated by individuals is funneled into intermediaries** and away from working charities. Assuming that their assets will grow at the same rate they have over the past five years, the assets held in DAFs and foundations **will eclipse $2 trillion by 2026.**

There's increasing proof that tech and finance companies are heat-seeking opportunities to make profit and create carve-outs.

- More and more technology companies are **promoting DAF-related platforms, apps, and widgets** as tools to ensure charity remains largely at home. These companies profess that their products will make DAF giving more bountiful, effective, and efficient — while charging fees, promoting DAFs as tax-avoidance vehicles, and telling investment advisors that their tools will help them "maintain AUM" (the acronym for assets under management, in industry parlance).

- **Four DAF sponsors closely affiliated with the tech sector** — PayPal, Endaoment, Daffy, and Charityvest — have a combined total of **$127 million in assets**, and they collectively grew by 237 percent from 2020 to 2022.

- **The financial industry is helping to blur the distinction between investment and philanthropy**, encouraging the idea of a seamless continuum from traditional for-profit investment through ESG screening and micro-loans to "traditional" philanthropy. Investment advisors often position philanthropy as part of a suite of spending behaviors, rather than something qualitatively different — something that, by its nature, requires individuals to relinquish personal interest and control.

- Bank of America's most recent Study of High Net Worth Philanthropy in 2021 found **the number of wealthy households participating in impact investing had doubled over the previous three years,** and 40 percent were using that impact investing in place of some or all of their charitable giving. Impact investing has fewer reporting requirements than charitable giving, so investors do not have to reveal which businesses, nonprofits, or campaigns they fund.

- **Recoverable grants are increasing in popularity,** offering one more way that private foundations can get around mandatory payout requirements, and one more way that DAF sponsors can increase the amounts in their investment portfolios.

- **DAFs are increasingly marketing their products for perpetuity,** which can have destructive consequences on the speed of giving. Our recent analysis estimates that a hypothetical national sponsor that has a strong emphasis on charitable grantmaking on their website would pay out at 62 percent, while a hypothetical national sponsor that has a strong emphasis on extrinsic donor benefits would pay out at just 6 percent.

- Of the more than 107,000 private foundations that filed annual tax returns electronically in 2022, **18,941 of those foundations — almost 18 percent — paid compensation to at least one trustee that was a bank,** a trust company, or a wealth management company.

- **From 2018 to early 2023, 21 organizations spent an estimated $11 million to lobby around DAFs,** fueling major organized opposition to the reform of donor-advised funds' fee structures and payout requirements. Most, if not all, of this money was likely spent fighting the common-sense reforms that would make our charitable system more responsive and transparent.

- **An estimated $3 million of that total was spent to defeat the ACE Act,** a bipartisan effort to boost DAF payout. And when the IRS proposed new regulations to tax DAF money managers, it received 236 public comments on those proposals, the vast majority of which were submitted by DAF sponsors, DAF advocacy groups, DAF lobbying firms, law firms, and trade associations for the investment industry.

We recommend common-sense measures to:

- Enact tougher regulations to **ensure donations to charity actually reach working charities in a timely manner,** instead of sitting for years or decades in donor-controlled intermediaries that continue to provide fees for money managers.

- Enact reforms to **eliminate the shell games and tax dodges** that financial advisors craft to diminish and delay the flow of funds to qualified charities.

- Organize a coalition — of smaller DAF-sponsoring organizations like community foundations, other nonprofit professionals who are exasperated by the status quo of mega-giving, and donors who recognize the perils of such imbalanced power over the sector — to **pressure Congress and state governments into taking action.**

- **Uplift the positive examples of DAF sponsors** who facilitate generous and steady giving even though laws do not yet require it.

Why "Financialization"?

"Financialization" or "financial capture" means, in economist Gerald Epstein's words, "the increasing role of financial motives, financial markets, financial actors and financial institutions in the operation of the domestic and international economies." Financial institutions have extended their influence into the realm of philanthropy, where the growth of assets shouldn't be the main goal.

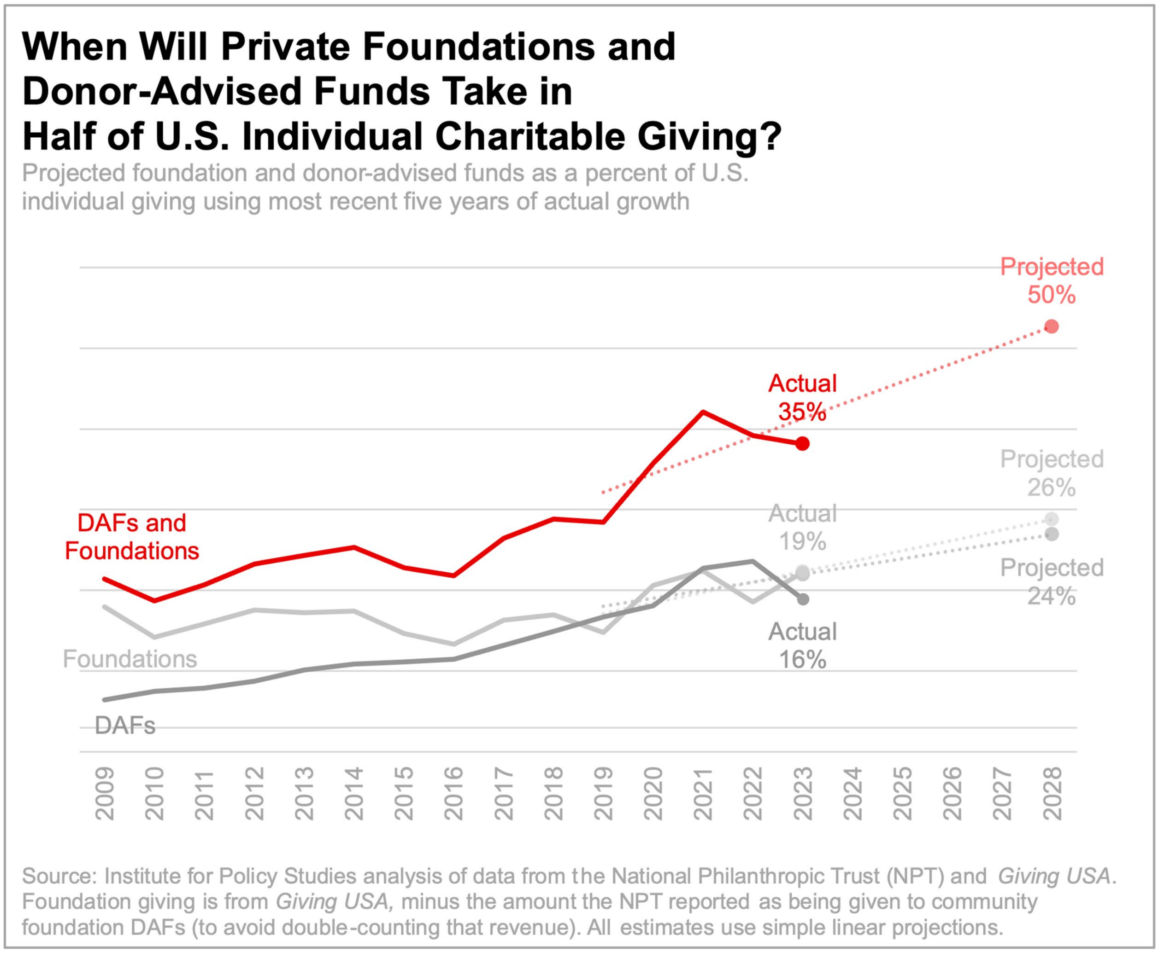
Our laws governing charity have long offered what law professors Dana Brakman Reiser and Steven A. Dean call the "Grand Bargain": that charitable givers, in exchange for tax benefits, fulfill needs and serve our common good by maintaining sufficient transparency, donating at a sufficient cadence, and supporting causes that are sufficiently divested from the givers' self-interest. But now, Reiser and Dean explain: "No longer walled off from the influence of American capitalism by philanthropy law, for-profit philanthropy deploys the arsenal of business in service of charitable goals."

It's no secret that the people who give money away can do so because they have extra to spare. But our charity sector as a whole, once supported by a broad base of Americans, increasingly depends on wealthier and wealthier donors. According to IRS data, households earning $200,000 or more accounted for just 30 percent of itemized contributions in 2002. That share had grown to 74 percent by 2022, the most recent year available, accelerated by changes in the 2017 Tax Cuts and Jobs Act. And, according to the University of Indiana's Philanthropy Panel Study, the percent of U.S. households giving to charity dropped from 62 percent in 2010 to 47 percent in 2020, just ten years later.

Another reason the one percent accounts for more than half of all charitable deductions? The practice of giving money away itself has increasingly tempting financial upsides.

As a result, philanthropy has become captured by the wealth preservation industry. Wealthy people use foundations and DAFs — charitable intermediary organizations that have quickly become some of the most popular destinations for donations — to get tax deductions immediately but maintain control over the money. They're also starting to use financialized instruments such as LLCs, impact investing, and recoverable grants; there aren't always charitable tax breaks for these but they nevertheless carry financial benefits for both donors and the financial industry.

At last count, DAFs and foundations together take in 35 percent of all individual giving in the U.S. And if these two types of intermediaries continue to grow at the rate they have for the past five years, by the end of 2028, they will be taking in half of that giving.



How Charitable Tax Breaks Work

Charitable giving by individuals may result in two types of taxpayer subsidies:

1. The direct cost of the tax deduction taken by the donor for the value of their gift

2. The indirect cost of the tax savings the donor receives by not having to pay capital gains taxes on appreciated assets when they donate those assets instead of cash

These two forms of taxpayer subsidy may be made more understandable with an example. Let's say that a donor has stock that she wishes to donate to charity. She originally bought the shares for $2,000, and now those same shares are worth $10,000. If she donates those shares to a qualified nonprofit organization, she will get two different forms of tax reductions for her gift:

1. She can use the total $10,000 value of her shares to reduce her taxable income by as much as $10,000, thereby reducing her income taxes. This tax savings could be as much as 37 percent of her donation, depending on her income level.

2. She also avoids paying capital gains taxes on the $8,000 appreciated value of her shares of stock, thereby receiving indirect tax savings. This tax savings could be as much as 20 percent of her donation, depending on her income level.

For wealthy donors with large amounts of appreciated property — from stocks and real estate to artwork and rare books — this second type of tax reduction can add up to very large savings indeed. In fact, the total federal subsidy that taxpayers shell out for income, capital gains, estate, and gift charitable tax reductions can be as much as 74 cents on every dollar a mega-donor gives to charity — and the wealthier the donor, the larger the subsidy they receive.

Why the Financial Sector Warps Philanthropy

Wealthy donors are more likely to retain the services of financial advisers and wealth managers, with the wealthiest having a staffed family office and family foundation to oversee their giving. Most of these managers focus on wealth management and financial investment for private family interests. But, increasingly, these professionals are applying their lens, worldview, and priorities to their client's financial interests in the charity space.

The primary objectives of these tax lawyers, accountants, and wealth managers — who comprise what we describe as the "wealth defense industry" — are to increase assets, minimize taxes, maximize wealth transfers to the next generation, and skim off a portion of those assets in fees. These interests are diametrically opposed to the interests of working charities on the ground.

For example, many money managers charge annual fees for assets under management. But if an individual is diminishing their assets, say, by giving to charity, there are fewer assets under management from which managers can extract pay. It is not in the interests of financial advisors, therefore, to have their clients make substantial and direct charitable donations that reduce their assets.

But if donors donate to a private family foundation or a donor-advised fund instead, financial managers may continue to play a role in managing the corpus of the investment assets (and receive fees). This is why these charitable intermediaries are growing so fast — and why their payout is so low.

In fact, many foundations explicitly or implicitly make perpetual existence a core assumption that dictates the annual allowance of funds to charity. At large private and family foundations, the financial advisor often serves as treasurer or chief investment officer, key roles in enforcing a perpetuity mindset and corresponding preservationist fiscal policies. Wealthy family members are advised not to touch the principal, and family foundations are similarly advised not to diminish the assets by giving too much to charity.

Similarly, many DAF managers are now encouraging donors to open so-called endowed DAFs, where the financial managers usually cap payout rates in the low single digits, ensuring the assets will grow in perpetuity. (Perpetuity is a magic word for financial advisors: The bigger and longer-living the pool of capital, the more money there is to skim off the top in fees.)

The objectives of the wealth defense industry can be measured in dollars and percentages. There are rare exceptions to these norms: Donors who give generously and directly to qualified charities, and families that choose not to aggressively seek every tax dodge in the book. But the orientation of financial professionals is asset preservation and growth, since that is where their bread is buttered — and they do everything in their power to encourage their clients to behave accordingly.

The end result of these trends? Our common society has been deprived of essential resources to maintain universal services. And our charitable sector has been diminished and distorted by the needs of the wealthy.

How the Financial Sector Drives the Expansion of Donor-Advised Funds

Charitable Conduit or Lucrative Financial Investment?

What are DAFs?

Most people in the United States don't realize that donor-advised charitable intermediaries exist, much less how they work. Donor-advised funds, or DAFs, are like charitable checking accounts. Rather than being managed by banks, they are managed by nonprofit organizations, which are called sponsors. These sponsors can be commercially-affiliated groups like the Fidelity Charitable Gift Fund, operating charities like the Sierra Club, or community foundations like the Silicon Valley Community Foundation.

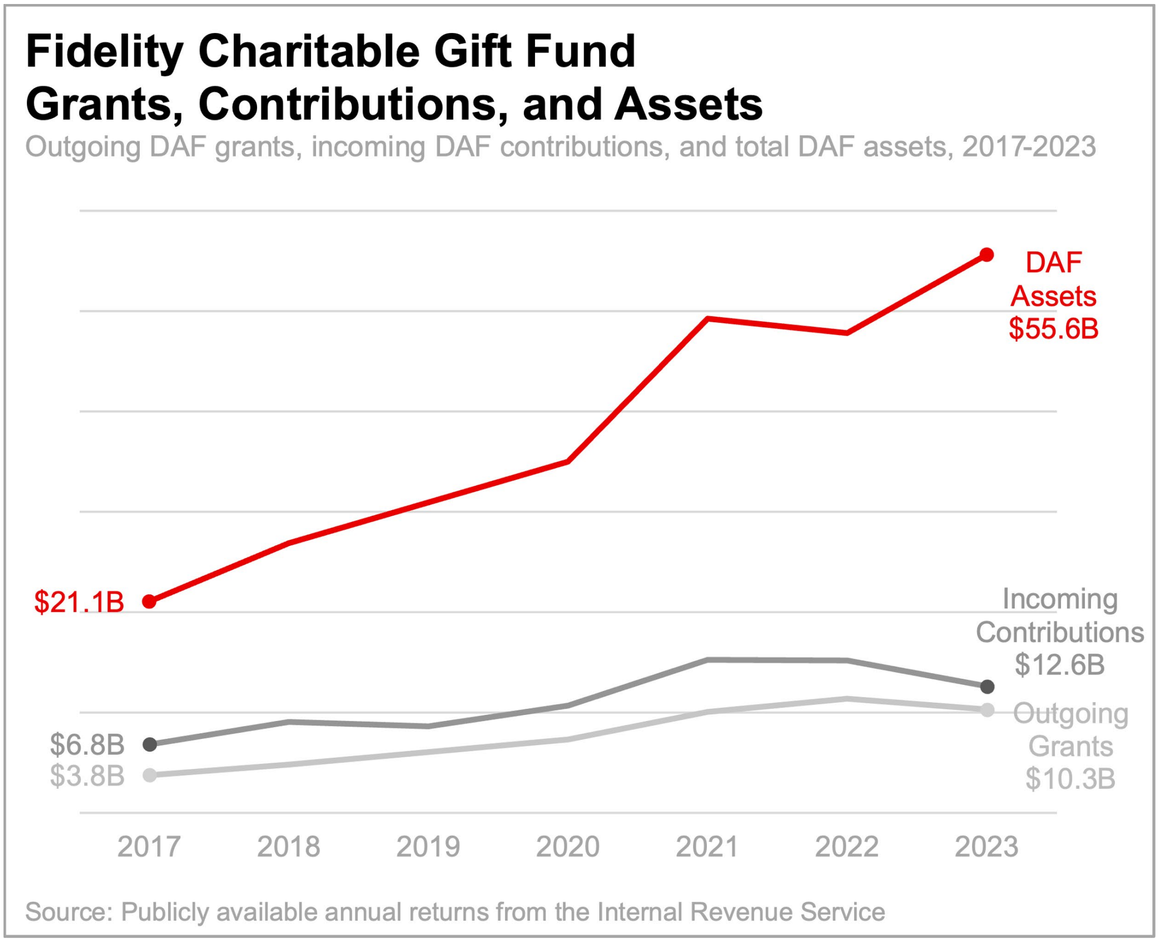
When people donate to a DAF, they get a tax deduction in the year they donate, since they're technically giving to a tax-exempt public charity. The DAF sponsoring organization then gives the donor broad advisory privileges to direct grants out from the DAF account to nearly whatever recipients they want, on whatever timeline they want.

Why should we care?

DAFs' reputation for functioning like charitable checking accounts has evolved into a reputation for functioning like savings or investment accounts.

There is no rule whatsoever requiring that the money in DAFs has to come out: It can just sit there for years — or potentially forever. Some fund sponsors set minimum payout rules on their own, but that is optional, and often weakly enforced. This means that the wealth parked in DAFs — which we have subsidized with charitable tax deductions — doesn't ever have to reach working charities.

For example, let's compare Fidelity Charitable's growth in assets to its growth in grantmaking. While assets have ballooned in value, grantmaking has remained relatively flat.



Another problem is that DAFs have little or no transparency. Sponsors don't have to disclose their major donors, and they only have to report their outgoing grants in aggregate, not by specific account. This means that DAF grants are essentially anonymous — The sponsors and recipients may know, but the public and even the oversight agencies do not. And this, in turn, makes them ideal conduits for dark money contributions.

How did DAFs become so popular?

Thirty years ago, donor-advised funds were relatively obscure giving vehicles housed in a small set of community foundations. But then, in the 1990s, for-profit wealth management firms like Fidelity Investments, Charles Schwab, and Vanguard realized that they could create nonprofit arms of themselves to serve as DAF sponsors — and that they could charge fees for managing the charitable assets stored in those sponsors. Fidelity secured approval from the IRS to administer donor-advised fund charity in 1991. At the time, the Council on Foundations didn't debate Fidelity's charitable capacity, regretfully reflects Tides Foundation founder Drummond Pike, who at the time thought the new commercial DAF sponsor resembled "an asset-accumulation strategy with a thin veneer of charitable purpose neatly laid on top."

Thus a lucrative industry was born based on money designated for charity. Thanks to aggressive marketing by these investment houses, DAFs have rapidly become central players in U.S. charitable giving. DAFs now take in more than a quarter of all individual giving each year, and DAF sponsors now represent six of the ten largest public charities in our country.

Who benefits financially from DAFs?

DAFs are increasingly serving the interests of both wealthy donors and DAF sponsors, rather than the interests of nonprofit charities, in several ways.

Donors can use DAFs to offload hard-to-value noncash assets to maximize tax deductions in a way that many smaller nonprofits are unable to process. DAF accounts' lack of transparency allows donors to funnel money anonymously to political causes and even hate groups. Private foundation donors can get around grant disclosure and payout requirements by giving grants to DAFs.

Although DAF sponsors can be any type of public charity, two-thirds of all DAF assets are held by national sponsors, a category dominated by commercially-affiliated sponsors like those created by Fidelity, Schwab, and Vanguard. These national sponsors are currently sitting on $153 billion in DAF assets earmarked for charity, 67 percent of the $229 billion total held in U.S. DAFs. This means that DAFs are also significant source of revenue not only for the for-profit investment firms that actually hold the assets (and charge fees for doing so), but also for financial advisors that manage DAF portfolios (who charge fees for doing so, and who can get finder's fees for referring charitably-minded clients to them). By 2018, the *New York Times* was already reporting that DAFs had become "a lucrative source of revenue for financial firms."

And other members of the wealth defense industry — the lawyers and accountants who work to maximize assets and minimize taxes for the wealthy — have also become enthusiastic promoters of DAFs for reasons that have little to do with the spirit of giving. Considerable tax advantages, a cloak of anonymity, and the lack of a payout requirement make DAFs an attractive new tool in their toolbox for tax-advantaged dynastic wealth retention, albeit through a nonprofit.

Examples of the Financialization of DAFs

Current charitable law makes it easy for donors and the wealth management industry to take advantage of DAFs for personal or corporate financial gain. And this is, unfortunately, becoming all too common. We present a few pieces of evidence here.

- **Donors use DAFs strategically to maximize tax benefits**

  DAF donors deliberately change the way they donate from year to year in ways designed to garner the greatest tax savings.

  A 2024 report from Vanguard Charitable shows that when the market is up, DAF donors contribute noncash assets (like stock and real estate) directly to their DAFs, allowing them to get income tax deductions for their donations and, at the same time, avoid paying capital gains taxes on those assets.

  When the market is down, DAF donors instead conduct what is called "tax loss harvesting" — they sell their depreciated stocks, and then donate the cash proceeds of those sales to their DAFs instead. The capital losses on depreciated stock help to offset any capital gains they might have, and the donation of cash gets them a bigger income tax deduction (since the deductibility of cash gifts is capped at 60 percent of adjusted gross income, while noncash gifts are capped at anywhere from 20 to 50 percent).

  And a new broader study by Ohio State University accounting professor Brian Mittendorf and Institute for Policy Studies research fellow Helen Flannery confirms that donors are using DAFs to dispose of noncash assets, especially those that are most highly tax-advantaged.

  In an analysis of over a thousand DAF sponsors and several hundred thousand working charities, the paper shows that donations to DAFs disproportionately come in the form of noncash assets, commonly in the form of publicly-traded stock. And donations to DAFs don't just skew towards noncash assets in general; they skew in particular towards the more highly tax-advantaged, complex noncash assets that are only available to the very wealthy, including assets like real estate, artwork, and business partnerships.

  In other words, DAFs are increasingly greasing the wheels for donations of highly tax-advantaged assets such as illiquid business partnerships or cryptocurrency — assets that are typically available only to the very wealthy, and assets that many working charities can't absorb or sell.

  In a recent and striking example of this, the DAF sponsor SDG Impact Fund received a $10 billion donation in 2021, most of which came in the form of noncash assets, including collectibles, cryptocurrencies, and digital assets. This gift raised the SDG Impact Fund's assets from $238 million to over $10 billion in just one year. It most likely delivered an enormous income tax deduction to the anonymous donor, and enabled them to avoid a huge amount of capital gains taxes on the sale of the donated assets. But there is no evidence about how this massive donation is being put to charitable use — and, because the SDG Impact Fund is a DAF, there is no requirement that it needs to be.

- **DAFs are the machinery behind popular crowdfunding platforms**

  Crowdfunding has seen enormous growth over the past decade, with an estimated $1.17 billion given in 2023 alone. But what people may not realize is that, when they give to a crowdfunding campaign for an organization, they are actually giving to a donor-advised fund. And they also may not realize that if the charity they choose isn't on that DAF's approved recipient list, the charity may never see the money.

  PayPal Giving Fund, or PPGF, is by far the largest crowdfunding DAF. PPGF is a nonprofit donor-advised fund sponsor that receives and processes the donations for most of the largest crowdfunding platforms in the country, including GoFundMe, eBay, Facebook, and Instagram.

  When donors give to organizations via any of these platforms, their contributions don't go immediately to their chosen charities They go instead to PPGF, which then distributes the money back out on its own timeline — sometimes several months later. And if the charity you have chosen isn't registered with PPGF — which is true for all but a small portion of the hundreds of thousands of nonprofits in the U.S. — your contribution won't go to the charity you want; it will go instead to a charity chosen by PPGF.

  PayPal Giving Fund is an understandably convenient way for these crowdfunding platforms to process donations; PPGF is, after all, a nonprofit spinoff of a for-profit payment processing company. And PPGF does have an extremely high annual payout rate for a DAF sponsor. But what is problematic is that donors don't realize that this is the way their contributions are being handled — much less that their donations won't necessarily go where they thought they would.

  And it is also unclear exactly how much PPGF takes in fees in exchange for processing charitable contributions. Nonprofit Quarterly discovered that in previous years, PPGF claimed on its tax filings that it distributed 100 percent of the donations it received to charity — but PPGF also took in a significant amount of "program service revenue" in addition to the contributions it reported. (This program service revenue amounted to $2.1 million in 2022, and the tax filings no longer include the claim about distributing 100 percent of donations.)

  All in all, the direct link between DAFs and crowdfunding platforms appears to be something driven primarily by the financial interests of those platforms — not something driven primarily by the desire to move money to where the public wants it to go.

  In 2017, 23 state attorneys general filed a class action lawsuit against PPGF about all of these issues. PPGF settled the lawsuit in 2020, promising to make its processes clearer to donors, and the various platforms that have partnerships with PPGF have all added fine print to their help pages that discuss it. But it is questionable whether this made the process any less opaque to the average crowdfunding donor — and the charges resurfaced in 2023.

- **High tech companies see huge market potential for DAF-related products**

  As donor-advised funds soar, more and more technology companies are offering DAF-related platforms, apps, and widgets. These companies profess that their products will make DAF giving more bountiful, effective, and efficient. But it's crucial to look past the glitzy promotional materials of these new tools to see what the hidden costs may be — not to mention what benefits they're actually providing to charities.

  Some of the tech companies and tech-affiliated sponsors that have recently jumped into the DAF ring include:

  - **PayPal** was perhaps the first tech company to make significant inroads in large-scale DAF processing. As we discussed earlier, PayPal created its own DAF sponsor — the PayPal Giving Fund, or PPGF — which processes the millions of donations made to our country's largest crowdfunding platforms. (Some of those crowdfunding platforms have also partnered with another Silicon Valley tech company, **Chariot**, which sells a product that allows donors to pay for their GoFundMe donations from their DAFs at other sponsors.)

  - Crypto-based decentralized autonomous organizations, or DAOs, are now joining the DAF party. **Endaoment** and **Big Green DAO** are two examples of DAOs — unregulated, ungoverned investment collectives — which have become DAF sponsors in recent years. These sponsors facilitate donations of cryptocurrency and digital assets. And all transactions are conducted by automated "smart" contracts, which are, in theory, protected by blockchain technology, without any need for banks or lawyers. Elon Musk's brother Kimbal, the founder of Big Green DAO, has said he believes that by getting rid of this type of needless "overhead," blockchain technology will solve many of the "inefficiencies" in the philanthropic sector.

    But there are big concerns with crypto-focused sponsors. Their collective nature and lack of any formal structure makes governing extremely difficult. It's unclear whether an unregulated, decentralized organization like a DAO can even legally handle stock transactions, much less distribute donations to charities. And, perhaps most fundamentally, crypto investments are dicey propositions for a nonprofit venture; at best, they are fiercely volatile, and at worst, ripe for fraud.

  - **Daffy**, a DAF sponsor created by Silicon Valley entrepreneur Adam Nash, is a relatively new sponsor that allows donors (whom it calls "members") to make grants, monitor their asset growth, and manage their DAF investment portfolios through a phone app. Daffy is a hybrid, processing donations not only from individuals but also from workplace giving programs.

But however much Daffy may have increased charitable giving has so far been eclipsed by what it has taken in. Daffy received more than $100 million in contributions in 2023 — growth of 425 percent in just one year — but its grants to charity that year amounted to just $9.8 million. And its funds may be more in jeopardy, given that Daffy has recently abandoned its use of Vanguard funds and has instead moved its investments into more crypto-heavy Bitwise funds.

- **TIFIN Give** is a for-profit company that bills itself as a "technology-powered philanthropy partner for wealth enterprises." It sells a charitable planning application to workplaces and wealth management advisors that they can use to manage their workers' or wealthy clients' donor-advised fund grants and investments. Its charitable partner, the GiveClear Foundation, serves as the DAF sponsor to manage incoming DAF donations. And TIFIN Give recently formed a partnership with AssetMark, a nationwide wealth management firm, giving it access to their clients.

  While TIFIN Give's products are designed to manage charitable giving, the company promotes them by speaking to wealth advisors' need to attract clients and increase assets under management. "Grow your asset and client base," TIFIN Give says, "through a differentiated, in-demand service that scales," and particularly appeals to the next generation.

  And while the GiveClear Foundation actually does all the receipt and distribution of any DAF gifts from TIFIN clients, the sponsor remains nearly invisible in the background. This allows wealth management firms to put their own logos on TIFIN's DAF portal, creating a "branded experience" for their clients' DAFs.

- **Causeway** was a start-up company that was recently bought by Charity Navigator, a behemoth charity ratings service. Causeway's value proposition is that it lets donors donate to general causes, rather than specific nonprofits. And it does this by allowing donors to choose from several curated pools of charitable organizations, akin to mutual funds.

  Causeway draws explicit parallels between itself and the investment industry. Co-founder and tech entrepreneur Ben Hurwitz says that Causeway's online platform "aims to replicate the digital experience of managing finances or stocks."

  The process by which charities become part of these charitable "funds," however, may not sit well with everyone — partly because the organizations that choose them come with their own biases, and partly because rating charities is, at best, an art, not a science.

To pick top charities for several of its pools, for example, Causeway enlisted the help of GiveWell, another charity ratings service that was started by hedge fund investors. The *Chronicle of Philanthropy* reported that GiveWell's ratings were "guided by the principles of effective altruism" and, accordingly, only researched "groups whose work can improve the lives of the largest number of the global poor." Leaving aside the fact that this criteria completely excludes smaller-scale relief organizations from consideration, even GiveWell itself has only evaluated a tiny number of the hundreds of thousands of organizations in its database — meaning the "top rated" charities in its pools are highly subjective at best.

In addition, as the *Wall Street Journal* has reported, money managers and corporations themselves "struggle" with how to define charitable impact. Industry analysts freely admit that the greatest challenge is that there is no real standard — especially when organizations' missions are focused on intangible benefits like the arts or social advocacy.

All of this means that Causeway donors are dependent on unproven algorithms, working with very small sample sizes, with criteria that inherently exclude broad categories of organizations from consideration.

These new tech sponsors and startups all claim to make DAF granting easier — or "frictionless," in their lingo — which in turn theoretically will increase charitable giving. (An increase which, to date, has failed to happen.)

It makes sense that DAF donors, nonprofits, and wealth management firms alike would see value in these tools. But with the onrush of these innovations into the DAF sector, it's more important than ever that we understand not only the advantages they may offer, but also what the companies that produce them stand to gain. As well-meaning as these companies may be, they are not doing this entirely out of the goodness of their hearts; all of them charge fees for their products and services.

And while they do talk about charity, they also make sure to reassure the investors and wealth managers who, by and large, are their clients. They promote DAFs to advisors and donors alike as a particularly "tax-efficient" vehicle; they talk about how donor funds won't be "stagnant" if they are invested in curated portfolios; and they tell investment advisors that their tools will help them "maintain AUM" — assets under management.

- **The most financially successful DAF sponsors do it by promoting donor benefits over charitable missions**

  A recent study on DAF sponsor website language shows that the sponsors that use their websites to promote the tax benefits and the decision-making power they offer to their donors — rather than what they're doing for charities — are receiving more donations and paying out significantly less in grants. And, as a result, their assets are building up much faster.

  In most current reporting on DAFs, sponsors are broken out into three main categories: community foundations (regional organizations like the Chicago Community Trust and the Silicon Valley Community Foundation), single-issue sponsors (operating charities, like the Sierra Club and the Red Cross, as well as Jewish federations and other faith-based charities), and national sponsors (sponsors of nationwide reach with no specific charitable mission, like Fidelity Charitable and DonorsTrust).

  But DAF sponsors don't all act the same, even within these three groups. The emphasis scoring system developed in the study, again by Ohio State University accounting professor Brian Mittendorf and IPS research fellow Helen Flannery, could predict behavioral differences not only across these three sponsor types, but also within them.

  National sponsors, in particular, tended to promote themselves based more on extrinsic donor benefits such as tax advantages and grantmaking control rather than charitable objectives. And those that spent more time talking about donor benefits on their websites had more assets, took in a much higher proportion of noncash, highly tax-advantaged contributions, and paid out grants at much lower rates than those that spent more time talking about charitable giving.

  In the case of payout, the difference was especially huge. As a group, national donor-advised funds tend to report aggregate payout rates somewhere in the 15 to 25 percent range. But Flannery and Mittendorf's analysis predicts that a hypothetical national sponsor that has a strong emphasis on charitable grantmaking on their website would pay out at 53 percent, while a hypothetical national sponsor that has a strong emphasis on extrinsic donor benefits would pay out at just 2 percent.

  And those lower payout rates have ripple effects when it comes to the buildup of assets: The authors predict that the charitable-objectives-focused national sponsor would have assets of $34 million, whereas the donor-benefits-focused national sponsor would have assets of $2.7 billion.

It makes intuitive sense that some DAF sponsors — particularly those that are operating charities like the Red Cross — would be more focused on their charitable objectives, while national-scale sponsors without a specific charitable mission or geographic focus — like Fidelity Charitable — would need to compete for donations based instead on the donor benefits they offer. (Indeed, [some national sponsors] are quite up-front in marketing the success of their long-term DAF investment portfolios.) And it makes sense that these different marketing appeals would likely attract different sorts of donors, and that those donors, in turn, would affect not only the types of assets coming into DAFs, but also the rapidity of their granting.

Image from DonorsTrust website

Donor-advised funds were originally meant to be instruments for social good. But this study suggests that some sponsors are adapting to — and in many cases perpetuating — the financialization of philanthropy by deliberately emphasizing the tax benefits and philanthropic control they provide to their donors over grantmaking. And this language matters: these sponsors are taking in more tax-advantaged assets, paying out less in grants, and building up their assets significantly faster, leaving their charity-focused peers — and working charities — farther and farther behind.

- **Aggressive lobbying against reform exposes how lucrative DAFs are for wealth management companies**

The companies that benefit financially from donor-advised funds — such as the investment firms affiliated with national DAF sponsors, and the wealth advisors that manage DAF portfolios — are pushing hard against changes in charitable regulations. These firms have deep pockets, and have spent millions to pressure legislators to block needed reforms and preserve the status quo.

For example, the Accelerating Charitable Efforts Act, or ACE Act, was introduced in 2021 with bipartisan support and proposed relatively modest reforms. But it failed to get traction thanks to aggressive lobbying both by organizations that manage DAFs and by industry advocacy groups that support them.

Our research shows that from 2018 to early 2023, 21 organizations spent an estimated $11 million to lobby around DAFs generally. Most, if not all, of this was likely spent fighting the common-sense reforms that would make our charitable system more responsive and transparent. An estimated $3 million of that total was spent to defeat the ACE Act alone.

Most of the organizations lobbying on donor-advised funds in general, and the ACE Act in particular, are the country's largest DAF sponsors — including Fidelity Charitable, Vanguard Charitable, and the National Philanthropic Trust — which have a financial interest in maintaining the current rules governing DAFs. But reform opponents are also supported by for-profit firms such as Charles Schwab and umbrella advocacy groups that lobby with a "donor privacy" philosophy, such as Philanthropy Roundtable.

One of the most active of these groups is the Community Foundation Awareness Initiative, or CFAI. The issues lobbied by the CFAI generally revolve around community foundation and DAF regulation and tax policy. In total, from 2018 to the second quarter of 2023, the CFAI has spent $4,440,000 on lobbying efforts, much of which has been directed towards either the ACE Act or donor-advised funds more generally.

- **Fierce attacks on new proposed IRS regulations on DAFs expose how lucrative DAFs are for personal financial advisors**

In November 2023, the IRS published a set of proposed regulations on DAFs. The proposal that generated the most heat would tax the fees paid from DAFs to their donors' personal investment advisors.

IRS regulations define a DAF as a financial account owned and controlled by a nonprofit sponsor. DAF donors, and any donor-advisors they appoint, have advisory privileges over the account's investments, as well as over its grants, but they do not have the final legal say over either one, and — most importantly here — they cannot be paid money from the DAF.

Many DAF donors use their own personal investment advisors to manage the portfolios of their DAFs. Right now, those advisors are considered independent parties, so they can be paid fees for their services out of the DAF accounts without penalty.

But the proposed regulations would change it so that a donor's personal investment advisor would instead be counted as a donor-advisor. If that happens, then any fee paid to that advisor from the DAF would count as an excess benefit transaction — a payment to a disqualified insider — and be subject to a hefty excise tax.

According to the tax code that covers these kinds of transactions, the sponsor would have to pay a 20 percent tax on the transaction, and any fund managers who knowingly pay this sort of compensation, whether they are employed by the sponsor or by a separate investment firm, would have to pay a 5 percent tax on it as well. On top of that, the investment advisor would have to return the compensation, with interest, to the sponsor. And if they don't do this relatively quickly, then they would pay an additional 200 percent tax on the payment.

To date, the IRS has received 236 public comments on its proposed regulations. The vast majority have been submitted by DAF sponsors, DAF advocacy groups, DAF lobbying firms, law firms, and trade associations for the investment industry, and most focus on the proposed taxation of advisor fees in particular. They argue variously that the changes would cause "immense operational and logistical problems" for sponsors; that they are "beyond the regulatory authority delegated to the Treasury"; that "robust controls are already in place," and that there is actually a public policy argument for "growing assets in DAFs for subsequent charitable distribution."

Investment advisors earn a great deal in fees from DAFs. As *Bloomberg Tax* has reported, it has become "common practice" for donors to pay their personal investment advisors to advise them on their DAF accounts. In fact, donors' personal advisors manage a sizable chunk of DAF portfolios; one DAF sponsor, the Dayton Foundation, said in its comments to the IRS that "the majority" of its $545 million in DAF assets are managed by its donors' personal investment advisors — presumably not for free. And other sponsors' comments reveal that financial advisors are often a primary source of referrals for new DAF donors — another way in which the interests of DAFs and the interests of asset managers for the wealthy are becoming increasingly interconnected.

If these regulations go through, then, investment advisors stand to lose a great deal of compensation. And sponsors would have to pay the bulk of the excise taxes on investment advisor fees. So both parties are fighting tooth and nail to avoid it. Several of the community foundations commenting on the proposed regulations argued that it would put them at a disadvantage relative to commercial sponsors, since they have no pool of in-house investment advisors to draw on.

But in its introduction to the proposed regulations, the IRS explains why it's a good idea to have more guardrails around the relationship between DAFs and investment advisors. Since advisors are often paid according to the assets held in a DAF, they may have an incentive, whether conscious or not, to recommend that their charitably minded clients give to a DAF instead of giving directly to operating nonprofits, or to suggest against giving out more grants than the donor might otherwise like.

Donor-Advised Funds, Dark Money, and Self-Dealing for Power and Influence

Donor-advised funds aren't just sources of tax breaks for individuals and income for financial managers. One of the other major perks they offer their donors is anonymity.

Unlike private foundations, DAF sponsors don't have to report who their major donors are, and only have to report on outgoing grants in aggregate, not at the account level. This means that when donors funnel donations through DAFs, it conceals the link between donor and ultimate recipient. As a result, DAFs are one of the primary mechanisms for dark money funding: *Mother Jones* famously called DAFs "the dark-money ATM of the conservative movement."

And, unfortunately, DAFs' opacity also makes it easier for donors to use them for self-dealing.

Conservative power broker Leonard Leo may be using DAFs for both of these purposes. Leo is one of the most prolific users of DAFs for political influence. And there is new evidence that he may be both giving and taking from his network of nonprofit organizations and DAFs.

Leo, who is the co-chair of the nonprofit libertarian advocacy group the Federalist Society, uses a highly effective network of DAFs and operating charities to advance an ultra-conservative political agenda. Leo was reportedly the mastermind behind the conservative supermajority on the U.S. Supreme Court. The 85 Fund, a public charity Leo founded, gave millions to Project 2025, a blueprint for a right-wing presidential transition. And in 2021, he cultivated the single largest political advocacy donation in U.S. history up to that point when Barre Seid gave $1.6 billion to the Marble Freedom Trust (an issue-advocacy organization Leo chairs).

But it seems that not all of the money sloshing around in Leo's network is flowing outwards. Politico reported that the 85 Fund paid CRC Advisors, Leo's public relations firm, more than $54 million over three years for its services. And the *New York Times* and *Politico* both reported that the Concord Fund, an advocacy group run by Leo's allies, had paid millions to Leo-owned companies since 2016.

Since Leo does much of his giving through DAFs, his gifts are anonymous and untraceable. But if Leo is indeed directing the charities he runs to fund other charities that, in turn, pay his for-profit companies for services, this is a no-no: IRS regulations bar charities from using their funds to enrich insiders. Leo is currently under investigation by the Washington D.C. Attorney General's office for this, but has so far refused to cooperate.

And there's another potential problem: The commercial sponsor Schwab Charitable (just renamed DAFgiving360) has served as Leo's chief intermediary, and funding from this DAF now provides almost all of the 85 Fund's revenue — allowing the 85 Fund to qualify as a broadly supported public charity while in fact it likely serves as Leo's personal instrument. We've called on the IRS to investigate, but Leo's activities also violate Schwab's own guidelines.

How Donors and Wealth Managers Use Private Foundation Assets for Financial Gain

Foundations As Old-Guard Intermediaries

Private foundations have been popular giving vehicles for the wealthy for more than a century. Although they're now being outpaced by donor-advised funds in the share of donations they receive, they remain a significant portion of the charitable sector, holding well over a trillion dollars in assets and accounting for nearly one fifth of all U.S. charitable funding each year. And, when used as intended, foundations can funnel billions of dollars each year to worthy causes such as the environment, human rights, and education.

But private foundations are also ripe for abuse. They allow a tiny group of mega-philanthropists to exercise outsized influence over the nonprofit sector, setting up funds worth hundreds of millions or even billions of dollars dedicated to the causes that matter most to them. Foundation donors receive significant tax breaks for their contributions, but still maintain control over the money — for themselves and for generations yet to come. And, in the absence of adequate oversight, some bad actors can divert foundation dollars intended for charity for the personal gain of their primary funders and their families. Efforts to reform or fix this vulnerability have been blocked by the charity industry.

How Donors and Their Advisors Use Foundations for Financial Gain

Private foundations, institutions explicitly established to serve the common good, are increasingly being used instead for the protection and advancement of private wealth. We present a few examples here.

- **Insiders use foundation assets to benefit themselves, their families, or their businesses**

    - In 2022, Inside Philanthropy reporter Michael Kavate **wrote** about hedge fund billionaire **Stephen Mandel, Jr.** Mandel's story stood out because his private foundation — the **Zoom Foundation** — fulfilled its charitable requirements each year by giving **99.9 percent** of its grants to a donor-advised fund at Fidelity Charitable. These grants have added up to **hundreds of millions of dollars** since 2012.

      It turns out that Mandel had been systematically investing the assets of his foundation into his own hedge fund, the Lone Pine Fund. And Mandel is not the only hedge fund manager doing this. **Paul E. Singer's** foundation has invested in his Elliott Management fund; **Israel Englander's** foundation has invested in his

Millennium Management funds; and **Peter Brown's** foundation has invested in his Renaissance Technologies' Medallion Fund, to name just a few. And, like Mandel, Singer's, Englander's, and Brown's private foundations also give huge percentages of their foundations' grants to DAFs.

Bloomberg interviewed seven tax experts to ask them why hedge fund managers were doing this. The strategy doesn't make sense on the surface, given the expense and overhead of running a charitable foundation. But it is actually a smart play, both financially and in terms of the control it offers.

Hedge funds are often extremely volatile. As Bloomberg wrote, their "boom-and-bust nature" might mean that a fund manager doing well might "end the year with significant tax liabilities, a vague interest in giving to charity in the future, but no immediate plans." Donating shares of their hedge fund to a private foundation allows them to reduce their tax bill without making them figure out right away where to give the money. (And sending that foundation money into a DAF lets them postpone those grants even further — or forever.)

At the same time, having the foundation invested in the hedge fund increases the hedge fund's assets under management, which, in turn, allows the fund to charge higher fees to its other investors — in addition to increasing the reputation and attractiveness of the fund generally. If the fund manager had instead given directly to a DAF, the DAF sponsor would most likely not have let them keep the money invested in their own fund.

- Investing foundation assets in your own hedge funds isn't the only way that insiders can use foundation assets to benefit themselves personally; they can also pay themselves hefty salaries for serving as trustees.

  We have written about insider trustee compensation in the past, most recently in our report *The True Cost of Billionaire Philanthropy.* But to take just one recent example: **Sung Kook "Bill" Hwang** was the chief executive officer and chief financial officer, respectively, of Archegos Capital, a family office that fell apart when Hwang was indicted on fraud and racketeering charges in 2022.

  In addition to running Archegos, Hwang was also the founder and co-chair of his own private foundation, the Grace and Mercy Foundation. Hwang received no compensation for his foundation board service, but he appointed at least eight of his employees and consultants at Archegos to the board and paid them sizable salaries from his foundation's coffers. In 2022, these trustee salaries ranged from around $400,000 for the foundation's secretary to more than $1,000,000 for its chief operating officer — Diana Pae, who had also been Archegos' co-president.

And the internal back-scratching doesn't stop there. Inside Philanthropy reported that, in total, 38 people were paid more than $50,000 by the foundation in 2022, raising their personnel costs to nearly $20 million, a wildly atypical amount even for our country's largest foundations. Hwang and his employees referred to the foundation as an "escape pod" for themselves in the event something happened to Archegos, and former employees have claimed that other Archegos staffers were given jobs at the foundation to get them to "lie or remain silent" about the family office's operations.

- **Insiders use foundation grants to benefit themselves, their families, or their businesses**

  - **Elon Musk**, the centibillionaire owner of social media company X and founder of PayPal, Tesla, and SpaceX, established his charitable Musk Foundation in 2002 with a mission to support technological advancements.

    Musk put relatively little into and gave relatively little out from his foundation until 2016. Since then, most of the tens of millions in grants the Musk Foundation has given out have gone to commercial donor-advised funds, and another $10 million chunk has gone to a grant maker set up by Silicon Valley accelerator Y Combinator. So we have no way of knowing which working charities, if any, eventually benefitted from them.

    But the grants that the foundation has given directly to operating charities appear to have largely gone toward causes that will benefit Musk, his family, or his businesses. Domestically, the foundation's grant recipients include The Foundation (a new private school founded and controlled by Musk); another school attended by his children; a charity managed by his brother: and a nonprofit fighting traffic congestion on the highway he uses to commute to work. Internationally, the Musk Foundation gave millions in grants to Giga, a United Nations program aimed at connecting schools worldwide to the internet — and, subsequently, some of the countries where Giga has been working became customers of Musk's Starlink internet networking company.

  - In 2022, the *Chronicle of Philanthropy* reported that pharmaceutical manufacturers gave millions of dollars in donations to nonprofit advocacy groups and provider associations which helped create a "massive market" for those manufacturers' highly addictive opioid painkillers.

    According to the Chronicle, one of the initial catalysts for this deadly process was a $1.6 million grant from the **Robert Wood Johnson Foundation** to the medical school at the University of Wisconsin. Under funding by the grant, medical school staff successfully pressured accreditors to require healthcare providers to make pain "the fifth vital sign" — in other words, to "assess and treat pain in every patient just as they do abnormal blood pressure or trouble breathing." This, in turn, normalized the prescription of opiates, boosting sales astronomically.

The "fifth vital sign" campaign was aggressively buttressed by pharmaceutical firms, which donated millions to nonprofit advocacy groups to keep the pressure on the accreditors and attention off the deadliness of their products. A 2020 Congressional investigation found that opioid manufacturers had given $65 million to advocacy groups up to that point, viewing them as "helpful extensions of their sales and marketing efforts." The contributions, which are detailed in the investigation's report, include many millions given by companies including Purdue Pharma, Pfizer, Johnson & Johnson, GlaxoSmithKline, and AstraZeneca to more than a dozen nonprofit hospitals, medical research facilities, and health care advocacy groups across almost two decades.

But one problematic issue is that when the Robert Wood Johnson Foundation gave its grant to the Wisconsin medical school, 65 percent of its assets were in Johnson & Johnson stock. Johnson & Johnson was one of the pharmaceutical companies with a thriving opioid business at the time — leading to serious questions about potential conflicts of interest.

- **Insiders take out loans from their private foundations**

    - In 1997, Wall Street corporate raider **Carl Icahn** donated $100 million in shares of American Railcar to his charity, the Foundation for a Greater Opportunity, gaining himself an estimated $45 million tax deduction. But the charity was unable to sell the shares because American Railcar was then still a private company. In 2005, Icahn learned that American Railcar was preparing for an IPO, and got the foundation to sell the shares back to him for the original $100 million; Icahn agreed to pay the charity $10 million up front, and the remaining $90 million over the next five years. American Railcar then went public, and Icahn's shares immediately jumped to $150 million—but he didn't pay the foundation back for ten more years. And later, in 2018, Icahn made an additional $757 million in profit when American Railcar merged with ITE Rail Fund.

    - **Gary Muralt** made his money owning and operating Muralt's Travel Plaza, a large truck stop in Montana. He and his son Walter set up the Muralt Family Foundation in 1998 and donated $1.4 million to it from 1998 to 2003. During those same five years, the Muralts and their for-profit businesses together borrowed $758,000 from the foundation, using the money to pay off personal loans and to make real estate and business investments. The foundation gave out a total of just $107,506 in charitable grants over that time.

- **Ken Malecha** is the former president of Best Brands Corporation in Minnesota. In 2000, he established the small Malecha Family Foundation to fund a local volunteer fire department. Four months after he set up the foundation, it lent Malecha $800,000—nearly all of its $1 million in assets at the time. Malecha said that he thought the loan was to the charity's advantage because he would be paying it back at 8 percent interest, which was higher than the foundation's regular return on its portfolio. Later, however, the charity thought better of the deal, and rescinded the loan.

- **Foundations pay trustee compensation to financial services representatives**

Occasionally, a foundation's board will include a trustee that is a service provider such as a bank, an accounting company, or a law firm. Quite often, these corporate representatives are paid significant amounts of money for their trustee service.

It is perfectly legal for a corporate representative to serve as a foundation trustee, and it is legal for them to be paid for doing so — but the practice raises questions about the purpose and proper use of assets that are supposed to be used for charity.

Foundation founders may choose to name a service provider as a trustee for a variety of reasons, including their investment, legal, or accounting expertise; the idea that they will provide continuity of management; or their potential to be neutral when there are disagreements among family trustees. Some firms become trustees when a founder has died and has appointed the company to the board in their will.

Nonprofit Quarterly (*NPQ*) investigated bank trustees at the country's largest private foundations back in 2015. They discovered that, over four years, those foundations had paid trustee compensation to representatives of the twelve largest banks in the U.S., adding up into the tens of millions of dollars.

This practice can be a slippery slope, leading foundations to enrich the banks at the expense of charitable missions. As *NPQ* wrote in their report, "making a bank a trustee for a foundation, particularly with few other trustees to counter it, gives the bank broader powers than some observers might assume." Sometimes the role of a corporate trustee is limited to the management and administration of grants, while other times the corporate trustee's power is broader, and they have a voice in determining grant distribution or overall missions. *NPQ* cited examples of bank trustees excluding family members from investment decisions, investing much of the foundation's assets in the bank's own stock, and requesting retroactive hikes in their fees.

NPQ's investigation was a *tour de force* of hand examination of paper foundation tax returns. Since their piece, foundations are now required to file annual returns electronically, making it easier to get a broader picture of bank trustee compensation.

Based on a topline analysis of these electronic filings, the Institute for Policy Studies estimates that:

- Of the more than 107,000 private foundations that filed annual returns electronically in 2022, 18,941 foundations — almost 18 percent — paid compensation to at least one trustee that was a bank, a trust company, or a wealth management company.

- The total compensation paid to these financial services trustees added up to over $455 million in 2022, for an average of more than $24,000 per financial services trustee.

- For 13,651 foundations, the financial services trustees were the only trustee on the board.

- For 13,685 foundations, the financial services trustees reported that they spent just one hour per week or less working on foundation business.

Below we have listed the ten financial services trustees we identified as receiving the most total compensation from foundations in 2022. The amounts listed are separate from any fees the foundations paid the companies.

Financial Services Trustees at Private Foundations Receiving the Most Compensation in 2022

EIN	Foundation Name	Financial Services Trustee	Total Compensation Paid to Trustee	Total Trustees	Year-End Assets	Grants Paid
36-6030614	WK Kellogg Foundation Trust	Northern Trust Company	$4,114,212	4	$8,282,027,516	$534,020,372
13-6192029	William R Kenan Jr Charitable Trust	JP Morgan Chase Bank	$3,703,304	2	$627,541,458	$32,820,034
56-6036515	Kate B Reynolds Charitable Trust	Wells Fargo Bank	$3,231,602	1	$597,309,664	$25,460,690
23-6205505	J E Barbey 8 Tenacre Foundation	PNC Bank	$2,501,816	3	$818,795	$69,211,298
47-6098282	Peter Kiewit Foundation	US Bank	$1,809,861	10	$431,803,629	$36,414,484
74-6385152	Albert & Bessie Mae Kronkosky Foundation	Bank of America	$1,510,308	2	$374,535,831	$19,182,540
39-1524311	RDK Foundation	US Bank	$1,475,814	3	$420,216,239	$1,992,800
41-6012374	C K Blandin Residuary Trust	Wells Fargo Bank	$1,348,677	2	$402,156,999	$21,607,006
51-0165988	The Champlin Foundation	PNC Bank	$1,238,780	13	$385,846,355	$20,728,332
25-6026443	Edith L Trees Charitable Trust	PNC Bank	$1,199,112	2	$344,239,361	$20,172,062

Source: IPS analysis of data from the Internal Revenue Service

PNC Bank appears in the top ten three times, and received a total of nearly $5 million in compensation in 2022 from those three foundations alone.

The highest paid bank trustee in our sample was the Northern Trust Company, which was paid $4.1 million by the W.K. Kellogg Foundation Trust. The Kellogg Foundation Trust is a trust set up by breakfast cereal magnate Will Keith Kellogg in 1934, and its sole purpose is to fund the operations of the W.K. Kellogg Foundation, one of the largest grantmaking foundations in the country.

How Financial Sector Instruments Blur the Line between Charity and Investment

Impact Investing

What is impact investing?

Affluent individuals, foundations, and donor-advised fund sponsors eager to have a positive effect on society have been increasingly looking to impact investing as a way to do it. Today, almost $1.2 trillion has been put into impact investment projects worldwide.

Impact investment means investing in ventures that will likely earn lower returns than conventional ones, but where the social benefit from those ventures will theoretically outweigh the lower revenue. Since the primary goal of impact investments is not profit but rather a positive social result, they are often publicly subsidized through tax reductions or credits.

And many donors and grantors are starting to see impact investing as a substitute for charitable giving. This includes private foundations, which can use certain kinds of investments to lower both their excise taxes and their payout requirements

The financial industry is helping to blur the distinction between investment and philanthropy, encouraging the idea of an apparently seamless continuum from traditional for-profit investment through ESG screening and micro-loans to "traditional" philanthropy. Investment advisors often position philanthropy as part of a spectrum of spending behavior, rather than something qualitatively different — something that, by its nature, requires individuals to relinquish personal interest and control.

Individual investors are, of course, free to do as much impact investing as they would like. Arguably, in fact, all investment should be done with consideration to its impact on society. But when investments are publicly subsidized — whether because they confer tax reductions or credits on their investors, or are done with revenue that has been subject to charitable tax deductions — it is important that those funds deliver the results they promise.

Financial advantages for donor-advised funds

Donor-advised fund sponsors have jumped into the impact investing world with both feet. Many DAF sponsors offer small-scale, more traditional ESG stock screening and SRI fund options to their donors, but some also offer their donors additional larger-scale choices such as socially responsible venture capital investments, microfinancing, and loans to nonprofits.

Fidelity Charitable and National Philanthropic Trust (NPT) offer tiered approaches, for example, where donors with small DAF accounts can choose one of four standard impact investing options, and donors with accounts over $250,000 (for Fidelity Charitable) and $500,000 (for NPT) can customize impact investing portfolios in more complex ways.

Impact investments are offered not only by commercially affiliated DAF sponsors such as Fidelity Charitable, Schwab Charitable, and DonorsTrust, but also by large community foundations such as the Silicon Valley Community Foundation, the San Diego Foundation, and the Denver Foundation, as well as sponsors focused more explicitly on their charitable objectives such as the Tides Foundation and ImpactAssets.

Impact investments are particularly problematic when it comes to DAFs. One reason is the control they cede to donors: they allow donors to direct portions of DAF assets into the specific impact investment funds, screening programs, and capital ventures of their choice, even though those donors have technically given up control over those assets by donating them to the sponsor.

But, perhaps more importantly, impact investments also tie up assets in for-profit ventures — many of which can be risky, illiquid, or both — which means they are less likely to be distributed as grants. Keeping funds locked in DAF portfolios this way arguably serves the needs of fund managers far more than it furthers charitable objectives. In the Bank of America's most recent Study of High Net Worth Philanthropy, the number of wealthy households participating in impact investing had doubled over the past three years, and 40 percent were using that impact investing in place of some or all of their charitable giving.

Tax advantages for private foundations: PRIs and MRIs

Individuals are not the only ones who are able to reduce their tax liability through impact investing; private foundations can reduce their liability as well.

Each year, foundations are subject to an excise tax of 1.39 percent on the income they earn from the assets they hold. But foundations can reduce their excise taxes through two types of impact investments: Program-Related Investments (PRIs) and Mission-Related Investments (MRIs).

- PRIs have three specific requirements: they must further the foundation's mission; their main purpose must be their social benefit, rather than their financial return; and they must not be used for political campaigning or lobbying. If an investment meets all these criteria, it is not subject to the excise tax, and the amount of the investment can also be counted towards its payout. In other words, PRIs can increase the foundation's payout rate without actually giving out more in grants to working charities.

- MRIs can't be used to lower the foundation's payout requirement or to count towards it, so they are held to a much lower legal standard. The only condition is that the foundation must be investing in them with the primary goal of having a positive social impact, with the goal of a financial return being secondary. If a foundation can convince the IRS that an investment qualifies as an MRI, then the amount they have invested in that project will not be subject to excise taxes.

Perhaps the greatest pioneer of both PRIs and MRIs is the Ford Foundation, which has put a huge portion of its assets into both types of investments. The Ford Foundation has been investing in PRIs since 1969, and more recently expanded into MRIs. In 2017, the foundation announced that they would be massively stepping up their use of those MRIs, putting $1 billion of their $12 billion endowment into mission-related investments over the next ten years.

Many other large foundations are also putting sizable chunks of their assets into impact investments. The Gates Foundation, the McKnight Foundation, the MacArthur Foundation, the W.K. Kellogg Foundation, the Packard Foundation, and the Heron Foundation are just some of the nation's largest foundations that have embraced this approach. The Pew Charitable Trusts not only does mission-related investing itself but also provides research about it to others — research aimed not only at promoting impact investing to other foundations, but also at urging Congress to do more to encourage it.

Unfortunately, foundations are not required to report their mission-related investments in their annual returns. But they do have to report their program-related investments. According to our own analysis of electronically filed private foundation returns in 2022, the most recent year available:

- 1,191 private foundations held program-related investments in 2022.

- In total, these PRIs added up to just under $1.8 billion.

- For the foundations that had them, PRIs made up a median 4.8 percent of the foundations' total assets.

- Most of the PRIs were held by foundations with more than $100 million in assets. These 147 large foundations held $1.3 billion of the $1.8 billion total that foundations had invested in PRIs.

- 40 foundations with assets of over $1 billion held a total of $544 million in PRIs. In this group, the foundation with the most dollars invested in PRIs was the Bill and Melinda Gates Foundation, with over $164 million in PRIs. The Richard King Mellon Foundation had the largest percentage of its assets invested in program-related investments; its $54 million in PRIs made up just over 2 percent of its total assets.

Tax advantages for individuals: tax credit investing

For decades, our tax code has offered ways to invest money that can result not only in financial returns, but also tax reductions. Before impact investing and ESG investing became popular terms, this was known as tax credit or tax equity investing: investors put their money toward projects that have been specifically designated as socially beneficial, and, in exchange, they receive a reduction in their tax liability for the amount they have invested. In some cases, the tax reduction can be large enough that it becomes the primary motivation for the investment.

This form of tax-advantaged investing can take many forms, each of which has its own provision in our tax code. Funders can receive tax breaks for projects like building affordable housing; preserving historic buildings; or building renewable energy facilities such as solar or wind farms.

Some states also provide tax credits for investors who invest their money in Community Development Financial Institutions, or CDFIs. These organizations provide loans to underserved communities, businesses, and individuals that might not otherwise be able to find financing to start businesses or nonprofits, or to pay for basic needs such as housing.

Tax advantages for individuals: opportunity zones

A newer way that the wealthiest individuals can get tax breaks for their investments is by funding projects located in Opportunity Zones, which were created as a part of the Tax Cuts and Jobs Act.

This provision, which expires in 2026, designated more than 8,000 low-income communities around the country as Opportunity Zones. It encourages investors to fund economic development in these areas which otherwise — at least in theory — wouldn't have received funding. In return, investors get significant breaks on capital gains taxes, and those breaks increase as the years go by. If a funder sells their interest in an Opportunity Zone investment after 5 years, they get a 10 percent reduction in their capital gains on that investment; if they sell after 10 years, they do not have to pay any capital gains taxes on it at all.

Opportunity Zone investments sound like a good idea but they have serious flaws. For one thing, Opportunity Zones are not for the everyday investor. Because Opportunity Zone investment is aimed at capital gains tax reduction, it makes sense only for people who have large amounts of capital gains — particularly those with high enough incomes to be subject to the highest capital gains tax rates. These investments are often only available to people who have been granted accredited-investor status, meaning that they are wealthy enough "to fend for themselves or sustain the risk of loss," and are therefore allowed to invest in riskier ventures like hedge funds and startups that are not insured by the Securities and Exchange Commission.

Another issue is that the bulk of the money so far has gone into a small minority of Zones that do not truly meet the spirit of the low-income designation and would likely have received investment anyway, even without the tax breaks. Many areas qualified because they were college towns or downtowns which have large numbers of relatively low-income residents, but which are actually prime targets for high-profit investments. A prime example is a Ritz-Carlton hotel in downtown Portland, Oregon, which was funded by tax-advantaged Opportunity Zone investment. And in Austin, Texas and Champaign, Illinois, Opportunity Zone money went to build luxury student housing.

In fact, according to economists from the U.S. Joint Tax Committee, as of 2021, 84 percent of the designated Opportunity Zones received no investment at all. For the 16 percent of the Zones that did receive funding, half of the investments went to the wealthiest 1 percent of the Zones.

Even when Opportunity Zone projects do happen in truly disadvantaged neighborhoods, there is no real requirement that the projects provide social benefit to the people in those neighborhoods. Opportunity Zone money has been used to fund, for example, self-storage warehouses that have few to zero employees.

The best estimates from the Joint Committee on Taxation are that **Opportunity Zones will wind up having cost the American public about $3.5 billion every year in lost capital gains tax revenue from 2019 through 2022.** But because there are no federal reporting requirements for Opportunity Zone investments, there is no way for us to tell whether our subsidy of them has resulted in any meaningful economic development in return.

Limited Liability Corporations

Less revenue going to charity outright

Wealthy investors increasingly appear to see investing in for-profit ventures as a substitute for philanthropic giving. This raises concerns that increasing amounts of money that would previously have been destined for charitable efforts will flow instead not only into impact investments, but, at the highest levels, limited liability corporations that do a combination of philanthropic and for-profit investment.

Indeed, high-profile investors such as Laurene Powell Jobs, Pierre Omidyar and Mark Zuckerberg have said that they see impact investing in for-profit companies through their LLCs as an integral part of their philanthropic efforts.

There is evidence that a shift from charitable giving to impact investing is already happening, at least among wealthy donors. In Bank of America's most recent Study of High Net Worth Philanthropy, the number of wealthy households participating in impact investing had doubled over the past three years, and 40 percent were using that impact investing in place of some or all of their charitable giving.

Less transparency

Impact investing has fewer reporting requirements than charitable giving, so investors do not have to reveal which businesses, nonprofits, or campaigns they fund. This means that when donors replace their charitable giving with impact investing, not only does it mean less money going to charities outright, but it also makes the use of that money more opaque. Impact investors can direct unlimited amounts anywhere they want without having to disclose that spending–something they would not be able to do with a private foundation.

When wealthy people use LLCs to do anonymous investing, granting, and lobbying, therefore, it is difficult to know whether we are getting a return from any subsidy we have provided in the form of investment tax relief. And it makes it more difficult to know how large charitable gifts may be influencing the nonprofit sector. As political scientist Sarah Reckhow writes, “if more high net-worth individuals choose to follow the footsteps of Zuckerberg, Chan, and Powell Jobs, the discrepancy between the size of the footprint made by the philanthropic sector and our ability to empirically examine its impact on the ground below will grow even larger.”

Using tax-advantaged investments to promote political agendas

Impact investments can be put to a much wider range of uses than can charitable gifts. Not only can they be used to fund for-profit companies, but they can also be used for political donations to campaigns, candidates, and lobbying efforts, something that charities are prohibited from doing. Laurene Powell Jobs and Mark Zuckerberg, for example, both use revenue generated from their impact investments to fund political campaigns and lobbying efforts — something that would not be possible with a private foundation.

Wealthy individuals such as Jobs and Zuckerberg have an understandable interest in influencing public policy, and have a legal right to try to do so with their money. But it raises the question of whether those wealthy people should be able to use publicly subsidized, tax-advantaged assets to do it.

Recoverable Grants

What are recoverable grants?

A new type of gifting has gained popularity over the past couple years: recoverable grants. These grants are, one important technicality aside, revenue-generating loans, a financial product innovation touted for leveraging more money for good. From our analysis, they offer one more way that private foundations can get around mandatory payout requirements. And they offer one more way that donor-advised fund sponsors can increase the amounts in their investment portfolios.

Recoverable grants are grants made by a donor — whether an individual person, a donor-advised fund, or a foundation — to an operating charity. The grant money is meant to be put into a specific return-generating investment. When an agreed-upon time period is up, the charity pays the donor back. If the charity can't afford to pay the donor back at the end of the period — like if the investment the charity made didn't pan out the way they thought it would — the charity doesn't have to pay the donor back.

In other words, it's as if the donor is giving the charity a loan, but if the charity can't pay it back, the loan is retroactively morphed into a regular grant. The only technicality that differentiates recoverable grants from regular forgivable loans is that there can't be an *explicit* expectation of repayment. This means that the repayment of recoverable grants can't *legally* be enforced, as it can with loans.

Proponents of recoverable grants are careful to stress that these transactions are not loans. "If a grantor requires that any portion of its grant must be repaid," say finance attorneys, "there is a risk that the grant will be considered a loan. This may have negative implications from an accounting and legal perspective." But both DAF sponsors and law firms tend to refer to them as "investments," rather than grants with charitable objectives. The Boston Foundation, for example, describes them as "impact-first investments made to impact-driven organizations with revenue-generating programs."

This structure is advantageous for private foundations because it helps them get around their annual payout requirements. If a foundation were to give a charity a loan that legally had to be repaid, then it wouldn't count as a grant, and wouldn't count towards the foundation's payout requirement. But if it is instead called a recoverable "grant" with no *explicit* expectation of recovery, then it can count towards the foundation's payout requirement — *even if the foundation fully expects to get the money back later*.

And donor-advised fund sponsors are increasingly getting on the recoverable grant bandwagon as well. They encourage their donors to use them to make investments that can return money back to the fund "sometimes even beyond the initial granted capital."

In theory, these funds would be plowed back into the DAF and then used to make grants to charity. But at least some grantors require recipient charities to pay back these recoverable grants with interest. Presumably the rates are typically low; Vanguard, for example, says that "most of the recoverable grants have no or a low interest rate." But that implies that some may be higher.

And many DAF sponsors recommend that donors make an extra donation (in the Boston Foundation's case, 2% of a donor's recoverable grant "portfolio") to cover the cost of researching and administering these types of grants.

Recoverable grants are, essentially, loans in grant clothing. Foundations and donor-advised funds aren't truly giving recoverable grant money away to recipient charities — they fully expect the money to be paid back into the foundation and DAF portfolios. The grants can carry interest. And DAF donors may, in many cases, be pressured to give extra contributions — essentially, fees — to cover the costs of administering them. All of this means that recoverable grant programs are another potential source of revenue for those who manage the portfolios of the grantor foundations and DAFs.

What We Can Do

When Congress last codified the rules that shape how money flows through our charitable sector — 55 years ago, in 1969 — they didn't confront the same conditions we do now. Wealth inequality was at one of its lowest points in modern American history, in part due to progressive top marginal tax rates. Late-sixties legislators did not anticipate the massive growth of concentrated wealth or the expansion of the financial industry into the charitable sector. Now, with creeping profit incentives and deepening struggles for working charities, it's time for legislators to act.

It's time to update the rules governing charity to:

- Maximize the timely flow of funds from donors to working charities
- Protect the integrity of the tax system by aligning deductions with the public interest
- Close down opportunities for self-dealing and financial profiteering

We want donations to reach working charities and for the philanthropic system to serve the common good instead of financial professionals. Taxpayer-supported charitable funds should flow in a timely manner, not sit for decades in donor-controlled intermediaries generating fees for money managers. We could make this happen by taking the following steps.

Establish meaningful payout requirements for private foundations by:

- Increasing the minimum payout rate for foundations to 10 percent for foundations with assets of $50 million or more, and increase it to 7 percent for all other foundations
- Shutting down shell games around payout, including:
    - Excluding foundation overhead expenses above 1 percent of assets from counting towards payout
    - Excluding grants from foundations to DAFs from counting towards payout
    - Excluding program-related and mission-related investments from counting towards or reducing foundation payout requirements

Make DAFs accountable to the public by:

- Requiring DAFs to pay out funds within 5 years of receipt
- Requiring DAF sponsors to disclose their major donors, as private foundations do
- Requiring DAFs to report grants at the individual account level
- Prohibiting grants from DAFs to other DAFs from counting towards payout
- Regulating the use of DAF assets for impact investing
- Exploring a regulatory carve out for sponsors that meet a certain payout threshold or have a certain maximum percent of their assets held in DAFs

Reduce extreme inequality and restore power to everyday givers by:

- Taxing the ultra-wealthy and those who manage their money
- Creating new charitable giving incentives for everyday donors, like replacing the under-utilized itemized charitable deduction with a universal tax credit
- Establishing a lifetime cap on charitable gift deductions
- Establishing a cap on the charitable estate tax deduction

Get strategic about monitoring and right-sizing for-profit philanthropy by:

- Requiring tax-advantaged impact investments to provide concrete benefits to the communities where they are located
- Disallowing donor-advised fund sponsors from using DAF assets for impact investing
- Disallowing foundations from using assets for impact investing
- Disallowing foundations from using mission-related impact investments (MRIs) to reduce their excise taxes
- Including program-related impact investments (PRIs) when calculating annual payout requirements for foundations
- Disallowing foundations from counting PRIs toward their annual payout
- Increasing transparency into the use and effectiveness of tax-advantaged impact investments

Basic charity reforms like these are popular across the political spectrum. Polling commissioned this year by the Charity Reform Initiative and the *Giving Review* reveals:

- 83 percent of Americans agree that taxpayers shouldn't have to subsidize wealthy Americans to create permanent legacy foundations.

- 71 percent agree that Congress should raise annual foundation payout from 5 to 10 percent.

- 79 percent think that DAFs should distribute their funds within 5 years (with 54 percent preferring disbursement within 2 years).

Private foundations and donor-advised funds disbursed an estimated $155.66 billion in 2023. Common-sense reforms could unleash over $110 billion in additional funding for working charities each year, and over **$339 billion over the next three years**.

Elevate the work of good-faith donor-advised fund sponsors and direct donors in general

There are, in fact, donor-advised fund sponsors that encourage their donors to move their money quickly, and that prioritize charitable objectives over asset growth. These run the gamut from community foundations to operating charities to national sponsors, and they should be uplifted in public discourse as role models — they prove that an alternative, affirmative use of these vehicles is possible.

The Seeding Justice foundation administers DAFs as donor-in-movement funds, splitting donations between community-led participatory grantmaking and donor input, and reducing the amount of assets lying fallow.

Donors to DAFs managed by the Amalgamated Charitable Foundation make a 10 percent annual payout pledge, accelerating year-over-year grantmaking to far beyond the national DAF average. Said Anna Fink, leader of the Amalgamated Foundation, to *Inside Philanthropy* this year: ""We see the value of moving the money to front-line organizations and field initiatives that really need it. And if you see yourself as part of an ecosystem, that ecosystem feeds itself and continues to grow — it grows based on relationships, it grows based on trust. So it is not about locking up the dollars. It's about building a vibrant ecosystem where money is moving through."

But Congress must act to create a new mandate for *all* DAF sponsors. "Self-regulation, or more equity-centered DAF sponsorship, is a start, but will only work with a certain minority of donors," explains Thaddeus Squires, a leader of the Social Impact Commons organization to *Proximate Press*. "In the end, our sector's ingrained cultural practice of bowing to donor control and interests will require the heavier hand of statute to start to shift the culture."

Band together to counter financial interests in philanthropy

In order to catalyze progress in the federal government or on the state level, we must build a countervailing coalition of nonprofit leaders who oppose the undue influence of the wealth defense industry. Smaller foundation leaders, donors who recognize the danger of the benefits available to them, and other nonprofit workers need a safe environment to oppose the interests of the status-quo philanthropy lobby without fear of losing funding or favor. We're part of the new working group of the Philanthropy Project, which intends to mobilize nonprofit influence on the critical and beneficial role regulation and public accountability have for American philanthropy.

Please learn more about and sign up to join our new reform coalitions, the Donor Revolt for Charity Reform and Stop Hoarding Charity Dollars.

Resources

Eight charts on top-heavy philanthropy (2024)
"The True Cost of Billionaire Philanthropy" (2023)
DAFs comprise 10 of our top 20 charities (2024)
Gilded Giving third edition (2022)
"Warehousing Wealth" (2018)

Methodology

Program-Related Investments

All information for our analysis of program-related investments comes from the electronically filed annual Form 990 returns of private foundations, which are all publicly available from the Internal Revenue Service. We used the following specific items in that form:

Item	**Location**
Total program-related investments	Form 990, Part VIII-B, Total of Lines 1-3
Total year-end assets	Form 990, Part II, Line 16, Column (b)