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## Private Foundations Bulletin

# Proposed U.S. Budget: Will Your Private Foundation be Impacted?

The United States Department of the Treasury recently released its proposed fiscal year 2023 federal budget. Included in the proposed budget is a proposal related to donor-advised funds (DAFs) and treatment of distributions made to them by private foundations. The DAF portion of the budget proposal is similar, in part, to the provisions previously proposed in the [Accelerating Charitable Efforts \(ACE\) Act](#), which was introduced in both the Senate and House of Representatives.

The proposed budget would restrict private foundations from including contributions to DAFs as part of their qualifying distributions total, unless the following two conditions are met:

- The DAF funds are distributed by the end of the following taxable year; **and**
- the private foundation maintains adequate records that the DAF funds were distributed.

Enactment of the proposed budget could potentially cause both an administrative burden and a tax challenge for private foundations. To ensure that it has policies in place to formally document the two aforementioned conditions, private foundations may require an increase in resources allocated to perform additional grantee due diligence. Formal documentation would be required to ensure that the DAF contribution is treated as a qualifying distribution.

In addition, for those private foundations that annually distribute to DAFs as part of their grant-making activities, these foundations may find it more challenging to meet their annual qualifying distribution requirement. Private nonoperating foundations are required to distribute 5% of the total fair market value of their assets held for non-charitable use purposes in a given tax year. Any amount undistributed must be distributed by the last day of the subsequent tax year. Failure to do so results in an excise tax of 30% on the remaining undistributed amount. Ensuring the proposed conditions are met will be critical when estimating the required distribution amount for the foundation's tax year.

## Updates to Follow

The United States Department of the Treasury budget is only one component of the entire U.S. federal government fiscal year 2023 budget. The budget is still in its early form and is subject to change prior to passing Congress and being enacted. We at PKF O'Connor Davies will continue to monitor the budget approval process and will provide further updates as information becomes available.

## Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the Private Foundation Services team members below:

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