

Expansion of Qualified Charitable Distributions to Donor Advised Funds?

Quick-Take: Congress is considering a bipartisan bill that would permit a qualified charitable distribution (QCD) to be made to a donor advised fund (DAF.)

Background: Currently there is dramatic growth in the use of donor advised funds, or DAF, as a way to carry out a donor's philanthropy. The use of qualified charitable distributions (QCD) from a traditional IRA is also growing in popularity as a way to make charitable gifts while avoiding taxable income. The problem is that currently a QCD cannot be made to a DAF. But that may change due to bipartisan (yes, I did use that seldom encountered word!) bill now pending in Congress.

QCD's: Under current law, an individual is permitted to make distributions from his/her traditional IRA if he/she is at least age 70 ½ or older to specific charities. [IRC 408(d).] The distribution from the IRA is excluded from the individual's taxable income, but he/she cannot claim an income tax charitable deduction for that direct distribution. The qualified charitable distribution (QCD) is not included in the individual's adjusted gross income and the limitations and phaseouts that apply to itemized deductions, but the QCD will be treated as part (or all) of the individual's required minimum distribution (RMD) obligation for the year.

Excluded QCD Charities: The excluded charities from a QCD are: (i) a donor advised fund (DAF); (ii) a private foundation, other than a private operating foundation; and (iii) a supporting organization.

DAFs: While a DAF is classified as a public charity (since it is sponsored by a publicly supported charity) Congress has placed several restrictions on a DAF's use, including: (i) the imposition of excise taxes [IRC 4966 and IRC 4967]; (ii) the excess business holding prohibition [IRC 4943(e)]; and (iii) the requirement that the sponsoring organization retain exclusive legal control over the DAF's assets. [IRC 170(f)(18).] These restrictions reflect Congress's concern about the donor's influence, the timing of distributions, and the potential accumulation of assets in, aka 'warehousing,' the DAF delaying any charitable benefit. In the past we have covered Congress' concern over the mismatch between

accumulating assets in a DAF for multiple years before charities are ultimately benefited, while the donor claims an immediate income tax charitable deduction.

Proposed Legislation: In 2025 a bipartisan bill was introduced in the House, H.,R. 891, the “IRA Charitable Rollover Facilitation and Enhancement Act of 2025.” On March 3, 2026, this bill was introduced in the Senate. The bill would modify the QCD rules to permit distributions from traditional IRAs to DAFs, but only to DAFs (thus continuing the prohibition of a QCD to a supporting organization or to a private foundation.) While some of the descriptions in the bill refer to ‘community foundations’ that normally sponsor DAFs, and the use terms like ‘everyday donors’ the enabling language that is used in the bill is broad enough so that it would also cover all DAFs, including those DAFs sponsored by large national investment firms and commercially sponsored DAFs.

Proposed Amendment: Technically, the bill would simply amend IRC 408(d)(8)(B)(i) to remove the exclusion for DAFs, thus authorizing a QCD to a DAF, including the donor’s DAF.

What About “Warehousing” Charitable Gifts? Previous efforts in Congress have been made to force distributions from a DAF over a specific period of time, much like the annual 5% required distribution rule that a private foundation faces. One such prior unsuccessful legislative proposal was the Accelerating Charitable Efforts Act, aka the ACE Act, which imposed a distribution requirement or a timing framework for DAF assets, but the ACE Act was never adopted. That is not to say, however, that these same concerns may reappear as Congress begins to debate the merits of the IRA Charitable Rollover Facilitation and Enhancement Act bill. If there remain concerns in Congress over the donor’s influence over his/her DAF it might not be too much of a surprise to find similar safeguards added to how long funds can accumulate in a DAF before they must be distributed, e.g., timing obligations tied to the donor’s claimed charitable deduction. In short, there might be a ‘trade-off’ in the debate to permit QCDs to a DAF, but the DAF may then face a mandatory duration before the DAF funds must be distributed to charities.

Conclusion: As a Republican Congress desperately searches for any positive legislation that can be enacted before the 2026 midterm elections that it can tout to its voting constituency, this bipartisan proposed bill that permits a QCD directly to a DAF might be one that could actually become a reality, even if it is accompanied by restrictions on how

long the donated funds can accumulate in the DAF before they must be distributed to charities. It will be interesting to watch where this bill goes over the next few months. It is something those interested in philanthropy want. Whether Congress can get its act together and give those folks what they want is entirely another question.

The text of the bill can be located at <HTTPS://TINYURL.COM/YW337UR>. According to a couple of sources, apparently this bill has a fair amount of bipartisan support.

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