

Legacy Advised Funds: Finally, here's something to "LAF" about

The world pandemic has likely caused us to laugh less. What also has been likely true about the pandemic for many and certainly is true for me is that I have cleaned my house from top to bottom, uncovering nostalgic things. One such thing I found was the first research paper I wrote in high school entitled, "Laughter: It's More Than 'Ha-Ha.'" My 14 page "masterpiece" concludes that laughing is extremely beneficial to our health. The eight benefits of laughter¹ listed in the conclusion of my tenth grade paper still resonate with me in 2021, particularly the following: "Laughter enables mankind to beguile the present in the same way that time can dim past tragedy or hope can brighten the future."

Given the benefits of laughter, I am thrilled to introduce you to the LAF. A Legacy Advised Fund is a variation of a Donor Advised Fund ("DAF"). A DAF is an account at a public charity, commonly a community foundation or the charitable arm of a large financial institution such as Fidelity or Schwab ("DAF Sponsor"). The DAF Sponsor handles the administration of the account and the donor retains the ability to direct the investment of the funds in the account and to recommend charitable grants they would like the sponsor to make. Most DAF Sponsors, particularly community foundations, will also sponsor LAFs. The one key difference between a LAF and a DAF is that the individual or individuals who establish the charitable account during life ("Donor") allocate assets to the LAF that will be distributed to the LAF sponsor after the Donor's death. Therefore, although the Donor can never recommend grants from the LAF, the Donor can designate other individuals to recommend grants from the LAF once it is funded.

Before the pandemic began, Congress passed the SECURE Act ("Act"). The Act significantly changed the ability of those who inherit IRAs and other qualified retirement plans ("IRAs") to stretch required distributions from such IRAs. Those to whom you give your IRA at your death now may pay more income tax over a shorter time period.

If you are charitably inclined, the LAF is a tool that you should consider as it may allow you to permanently avoid the deferred income tax remaining in your IRAs at your death while simultaneously benefiting your loved ones and those nonprofit organizations supporting causes about which your loved ones are passionate.

LAFs, similar to DAFs, offer various tax savings and charitable giving strategies. Although you will get no current income tax deduction with a LAF, if you, as an owner of the IRA, designate a LAF as the beneficiary of your IRA, then you may:

1. Provide a charitable bucket or buckets of funds for your family and friends. The entire amount given to the LAF is available for the advisor(s) of the LAF to grant to their preferred nonprofit organization(s). You can create one LAF for your family to distribute among common preferred nonprofit organization(s) (a "Pot LAF"). You can create a LAF for each of your children and grandchildren to distribute among their specific and unique preferred nonprofit organization(s). You can create both a Pot LAF and individual LAFs. The choice is yours to make to best suit your financial and family situation.
2. Provide for a wealthy child without subjecting the inherited assets to income or estate tax. Often parents want to give to their children equally. If one of their children will have a taxable estate ("Wealthy Child") and their other children will not, a solution is for the parents to designate IRAs to a LAF in an amount equal to the Wealthy Child's share. Wealthy Child is designated as the advisor of the LAF. Wealthy Child receives an inheritance (albeit Wealthy Child must eventually give the money to nonprofit organizations but how wonderful to have money at one's disposal to give to causes one finds personally worthy?) and income tax, estate tax can be avoided in both parents' and Wealth Child's estate.

Estate planning professionals advise our clients to regularly review and update their estate plans. Of course your revocable trust, will, and powers of attorney come first to mind. Indeed, the documents that create your estate plan must be accurate and up to date with current tax laws and your family and financial situations. But equally important is the review of what assets you own and how those assets are titled or otherwise will transfer at your death. Every review of your estate plan should include noting which of your assets have beneficiary designations

and confirmation that such designations jive with the estate plan created by your trusts, revocable or otherwise, and will. Similarly, if you currently have a DAF, have you considered whether your succession or disposition plan for the DAF is still appropriate? Recall when you initially created the DAF, you indicated whether at your death (1) the assets in DAF will be distributed to nonprofit organization(s) of your choice or (2) designated successor advisors will make grants from the DAF in your stead. If you have designated successor advisors, in essence the DAF will become a LAF once you die or otherwise are unable to recommend grants from the charitable fund. If you have a DAF that will transition into a LAF, you should discuss the DAF/LAF with the successor advisors in order to prepare them for their future responsibilities.

As noted, a LAF does not offer any current income tax benefit to the Donor. at this time it is not clear if income taxes will be higher in 2022, that may be the case. If you decide to accelerate income into 2021 to avoid that potential higher tax and want an offsetting charitable deduction, then you should consider establishing and funding a DAF or charitable remainder trust before the end of the year.

In short, both Laughs and LAFs are beneficial to us humans. I recommend that more of each be caused and created. It is the time to laugh and LAF and laugh.

1. Following are the remaining seven points: 1. Laughter benefits the lungs and various other internal organs. 2. Laughter clears the respiratory system. 3. Laughter provides a healthful emotional outlet. 4. Laughter provides an opportunity to discharge superfluous energy. 5. Laughter combats boredom. 6. Laughter alleviates social constipation. 7. Laughter helps to combat shyness, tension, and worry. [↔](#)

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