



Engaging funders in their quest for philanthropic excellence

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March 28, 2014

Letter from the Community Foundations of New York State to:

Senator Charles Schumer
Senator Kirsten Gillibrand
Representative Tom Reed

As chief executives of the community foundations in your state, we are writing to you to request your help in fixing a policy issue within the IRA Charitable Rollover that affects our ability to create and grow community philanthropy in New York. The matter is of some urgency, given that the tax extenders bill (which includes the IRA Rollover) could be marked up by the Senate Finance Committee and the House Ways & Means Committee in early April.

Our ask is that you work with other Committee members to end the prohibition for Donor-Advised Funds in the IRA Charitable Rollover. This should be an easy fix in the context of the extenders package because it would simply involve removing one line from current law; it would not require a wholesale redrafting of the provision.

As you may know, community foundations and their donors frequently use a charitable tool called a Donor-Advised Fund (DAF). During consideration in 2006 of the Pension Protection Act (PPA), Senator Grassley had concerns about isolated abuses in the DAF space, and he authored a number of reforms that were approved as part of PPA with bipartisan support. For example, since PPA, a donor cannot use a DAF to direct gifts to individuals, private foundations, or non-charitable purposes. A donor cannot recommend a gift that provides more than an incidental benefit to the donor-advisor. And DAF administrators must generally dispose of any closely-held business interests within five years.

Now, eight years later, these reforms have been a success, and they have allowed the donor-advised fund tool to flourish in New York and elsewhere.

Donor advised funds have diverse charitable purposes, but focus on community benefit. The community foundations of New York State are hosts to 2,679 Donor Advised Funds, which distributed \$109,470,253 last year. Donor advisors are individuals from all income levels and backgrounds. They engage donors and support important programs in our communities:

“In Rochester, donor-advised funds have helped us build quality early childhood education, telemedicine, mentoring programs, after-school programs and much, much more. These are our best living donors – and the ones most likely to invest in our community’s future, too. They want to use the IRA rollover to put money into programs that work and nonprofits that matter. We urge you to consider this change.”
Jennifer Leonard, Rochester Area CF

“Adirondack Foundation does the hard work of administering our family donor advised fund that makes giving back to the youth in our community easy,” Nancy Monette, Adirondack Energy Services

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“It’s not the amount that can be distributed from our donor advised fund, it’s the effort, the intent – it’s the act of giving that I feel excited about. It’s contagious.” Jay Ward, owner Ward Lumber Company

“Most of our donor-advised funds support nonprofits that are doing important work in the local community, impacting local individuals in a number of human service areas.” Karen Buchheit, Cattaraugus Region CF

“Our donor advised funds have gone to projects and programs that support the quality of life, families, the arts and education in our community such as: United Ways of Broome County and Tioga County, Binghamton Philharmonic, Binghamton Boys and Girls Club, Council of Churches and many others. “ Diane Brown, CF for South Central New York

“[Donor advised] funding has gone many programs and to preserve libraries, youth employment programs and health services which have lost governmental funding yet remain a priority of local residents.”

George Ferrari, CF of Tompkins County

“Donor advised funds respond quickly to the needs in our community. They often help fund projects that the Community Foundation, through our other grant processes, is unable to fund. During the economic downturn, donor advisors responded by changing their charitable priorities and distributed more to help meet people’s basic needs.” Andrea Reynolds, CFs of the Hudson Valley

“New York City's nonprofits rely on this support.” Lorie Slutsky, The New York Community Trust

“Donor advised funds provide flexibility, allowing the donor to be responsive to current community needs.” Diane Hannum, Northern Chautauqua CF

The Pension Protection Act also required the Treasury Department to do a study on DAFs, and Treasury’s study found that PPA provided a structure to address abusive practices without creating new opportunities for abuse. The study confirmed that average DAF payouts are nearly twice what is required of private foundations (even higher at many community foundations). Treasury also concluded that the contribution deduction rules faced by donors to DAFs should be the same as those for other public charities.

This is the key point about which we are writing to you today: Treasury has said that since the avenues for abuse have been closed, DAFs should now be subject to the same rules as other philanthropic vehicles. Yet under the IRA Rollover, they are not.

The IRA Charitable Rollover was also started in the PPA, but since the above reforms had not yet taken effect, the original rollover language said a taxpayer could not use the rollover for a gift to a DAF. So under current law, a donor can use the IRA Rollover to give to a university endowment, or to the endowment of a local hospital or art museum – but they can’t build *community* endowment by contributing to a donor-advised fund at their local community foundation, despite the fact that DAFs usually have higher average payouts than other forms of endowment.

In short, this prohibition may have made sense in 2006, but it is no longer needed today, and the current rule hurts our ability as community foundations to grow community philanthropy. It places the 20 community foundations in New York at a disadvantage compared to other charities.

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Every community foundation can give examples of how they lose donations each year because a potential donor, upon learning that they cannot use the rollover to open a DAF, decides to seek another local charity for their gift – or doesn't give at all. Because current DAF payout rates are generally substantial, the current prohibition doesn't promote greater giving – it actually restricts donor flexibility by codifying a preference of one type of charity over another.

Fixing this provision when the IRA Charitable Rollover is extended in the Finance Committee would have a positive impact in communities all across New York. It is one of the top policy priorities for the roughly 750 community foundations in the country. Removing the prohibition will help promote community philanthropy at a time the charitable sector is being asked to do more to help those in need.

Donor-advised funds are powerful tools – both for average people who want to make lasting commitments to their communities, as well as those with more financial flexibility who are looking for an alternative to a private foundation. This simple, small change would do wonders to help the charitable community in our state. In fact, rarely does an opportunity come along to do so much good for communities across New York by enacting such a simple, straightforward policy change – and one with hardly any revenue cost to boot.

Thank you very much for your attention to this matter, and we all stand ready to answer any questions that you or your staff may have. We hope that you will work with other Finance Committee senators and Ways & Means representatives to fix this provision during the extenders markup.

Thank you for your consideration,

Cali Brooks
Executive Director
Adirondack Foundation

Clotilde Dedecker
President/CEO
Community Foundation for Greater Buffalo

Denis Dahlgren
Executive Director
Allegany County Area Foundation

Diane L. Brown
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Cecilia Clarke
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Brooklyn Community Foundation

Karen Bilowith
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Karen Buchheit
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Peter A. Dunn
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George Ferrari
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Community Foundation of Tompkins County

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