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February 15, 2024

CC:PA:01:PR (REG-142338-07)

Room 5203

Internal Revenue Service

P.O. Box 7604

Ben Franklin Station

Washington, DC 20044

RE: IRS and REG-142338-07

Comments in Response to Notice of Proposed Rulemaking, Request for Comments in Connection with Taxes on Taxable Distributions from Donor Advised Funds under Section 4966

To whom it may concern,

The Finance, Administration & Operations Group for Community Foundations (FAOG) is writing to provide comments to the Department of Treasury and the Internal Revenue Service's (IRS) Notice of Proposed Rulemaking regarding *Taxes on Taxable Distributions from Donor Advised funds under Section 4966*.

FAOG is a membership organization representing more than 300 community foundations. The membership is comprised of community foundation staff whose primary area(s) of responsibility are in the fiscal or administrative areas of their respective foundations - individuals serving key roles including accounting, finance, HR, investments, and technology. FAOG's mission is *to provide education, support and networking opportunities for community foundation finance, administration, and operations professionals*.

FAOG's membership spans small volunteer-led community foundations to multi-billion-dollar community foundations with more than one hundred staff. All members are working to strengthen and serve their communities. Some members serve their community through an asset base of primarily non-endowed Donor Advised Funds (DAFs), while others draw on

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endowments, with DAFs enabling community impact through emerging needs while endowments grow to support these needs in perpetuity. In short, FAOG represents organizations uniquely qualified to comment on the role of DAFs as an invaluable tool for serving community needs, and the importance of a regulatory framework that supports our work.

Issue Framing and Perspective

FAOG affirms the legislative goal of ensuring dollars are deployed by DAF sponsors to serve communities. Recognizing this common goal, community foundations deploy DAF assets over multiple grantmaking horizons, addressing community needs through both grantmaking and impact investing. We execute this work as nonprofit entities in our communities with business models that also grow philanthropic assets, for distribution today and in perpetuity, while granting on average well over 5% annually.

Community foundations engage donors, bringing to bear our deep knowledge of the communities we serve. The expertise our grantmaking teams draw on while leveraging DAF resources allows us to create meaningful impact over longer periods of time. The significant benefits created through this engagement and leveraging of resources – by default if not intention – are likely to be limited with enactment of these proposed Regulations.

Issues of Concern

We join with our community foundation colleagues who have submitted detailed responses in response to these proposed Regulations. We echo the sentiments describing certain provisions in the Regulations that would be difficult to administer, and impose burdens on DAF sponsoring organizations. We further believe that as a whole the Regulations would fall disproportionately on community foundations, and impede the philanthropy and volunteer engagement that a community foundation can foster.

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As an organization representing the financial professionals in the community foundation field, we attest to the high standards and best practices to which we adhere. We believe the Regulations fail to recognize the value of DAFs to community foundations as a tool to achieve our missions of building and strengthening the communities in which we live and work.

We specifically highlight the increased administrative burden for our members with small staff sizes, and the significant business model interruption for our members who have a large majority of their assets in DAFs, and those with separately managed investment pools. At a minimum, we believe that these implications warrant either a delay in the effective date of regulations or a prospective application.

Closing comments

Community foundations exist to steward community need, donor engagement, and investments and finances, and our approaches are as varied as the communities we serve.

FAOG is grateful for the opportunity to comment on these proposed Regulations and offer our organization as a resource to providing greater context to objections and concerns thereto. We offer our expertise from the perspective of financial professionals who have been doing this work for decades within the current regulatory environment and look forward to your continued efforts to provide Regulations that effectively guide our work and support our missions.

Sincerely,

Bryan Tait, CPA
President, FAOG

Brett Hunkins, CPA, JD
Vice President, FAOG