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California Tax Lawyer Publishes “Proposed Guidance for Donor Advised Funds”

The *California Tax Lawyer* recently published ***Proposed Guidance for Donor Advised Funds***, a policy paper co-authored by Adler & Colvin associate attorney **Jorge Lopez** and Courtney Nash of Farella, Braun + Martel. The authors describe the history of DAFs and explain the changes made with the adoption of new rules as part of the Pension Protection Act of 2006 (“PPA”). The authors then discuss the need for IRS guidance on several issues of primary concern or common confusion among donors, sponsoring organizations, and practitioners regarding the rules applicable to Donor Advised Funds. The paper addresses questions concerning the application of the definition of Donor Advised Funds; excise taxes with respect to receiving, directly or indirectly, a “more than incidental benefit” in the Donor Advised Fund context; excise taxes related to distribution to disqualified supporting organizations and excise taxes in connection with excess business holdings. The authors offer proposed guidance addressing these issues and conclude that the continuing lack of guidance from the IRS, nine years after the change in law, unnecessarily limits the flexibility of Donor Advised Funds and inhibits compliance with the PPA.

Proposed Guidance for Donor Advised Funds was published in Volume 23, Number 3, of the *California Tax Lawyer* and are available (with the permission of the *California Tax Lawyer*) on our [website](#).

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