**Nonprofit Law Jargon Buster: Donor Advised Fund**

The Pension Protection Act of 2006 ("Act") offered the first definition of a donor-advised fund. According to the Act, a fund must have the following three characteristics to be a donor-advised fund, and if any of these characteristics is missing, the fund is *not* a donor-advised fund:

1. **Separate Identification.** The fund is separately identified with reference to the contribution of a donor or donors. Separate identification is present when the fund is named after a donor or persons related to the donor. Separate identification is also present if the nonprofit organization's accounting system tracks the donor of the contribution on the nonprofit's books.
2. **Ownership and Control by Sponsoring Organization.** The sponsoring organization (a charitable organization that is not a private foundation) must own and control the fund; and
3. **Advisory Privileges.** The donor (or a person appointed by the donor) must have or must reasonably expect to have, the privilege of providing advice with respect to the fund's investments or distributions.

The Act specifically excludes funds held for a single designated organization or a single governmental entity as donor advised. In addition, funds that are merely restricted as to purpose are generally not considered donor advised funds. For example, gifts made for a particular purpose, such as a building project, are not considered donor advised because once the perimeters are set, the donor does not continue to advise the nonprofit on distributions from or investments of the contributed funds.

 