

## Secure Your Legacy: How Donor Advised Funds can be Used in Estate Planning

Host: Ted Hart | President & CEO, CAF America

Guest: Jessie Krafft | Senior Vice President of External Affairs

**Speaker 2:** Learn how to take your caring and giving farther with *The Caring and Funding Podcast* powered by CAF America. CAF America, America's leader in cross-border philanthropy, helps corporations, foundations, wealth advisors, and individuals who wish to give internationally and with enhanced due diligence in the United States. Through its industry-leading grants management [00:00:30] program and philanthropic advisory services, CAF America helps donors amplify their impact and ensure their gifts are made in a safe and effective manner. This *Caring and Funding Podcast* is dedicated to these donors and the charities they support.

Our guests are leaders in their field who join us to share tips for success and stories that inspire. Our host is Ted Hart, the President and CEO of CAF America. After the show, you can find all our podcasts at [cafamerica.org](http://cafamerica.org) on iTunes [00:01:00] and now just say, "Alexa, play CAF America on TuneIn." Now, welcome the host of CAF America's caring and funding podcast, Ted Hart.

**Ted Hart:** Welcome to this new edition of *The Caring and Funding Podcast*. Estate planning is the legal process through which you plan for the disposition of your assets after you are no longer here. Legacy planning is the charitable process through which your values [00:01:30] and charitable good works live on. Most people, unfortunately, do not have a will, 69% of Americans die without having a will, and that is how most people who transfer their assets do so, through a will.

69% of Americans without a will and failure to have a will means that your estate will be settled under state law, which will direct your property as distributed [00:02:00] under a one-size-fits-all statutory formula called intestate succession, which is unlikely to fully reflect your wishes. For advisors who are working with philanthropically-minded clients, your clients can name a charity in their will like CAF America—our legal name is Charities Aid Foundation of America—along with the address of the charity they wish to support.

Our address is 225 Reinekers Lane, Suite 375, Alexandria, Virginia, [00:02:30] 22314. For clarity, they can add the charity's federal employer identification number. Ours is 43-1634280 and the charitable gifts will be made via their will to the charities they wish to support. It's advisable for the will to also stipulate what type of gift the donor wishes to make, for example, cash or property and perhaps along with that, how the gift is to be distributed to domestic [00:03:00] or international charities, it is that simple.

However, this podcast is for donors and their advisors who wish to ensure their assets are put to good use, to be put towards something lasting, something befitting their true legacy. Often the legacy planning process involves laying out how donors will bequeath assets to charities after their death. This podcast will show how your donors can establish a legacy donor advised fund to secure their charitable legacy, [00:03:30] a professionally-managed legacy, a legacy that is not limited to

only USA charitable organizations but can also support your favorite charity virtually anywhere in the world.

Legacy planning represents the continuation of the donor's values to the transfer of wealth and assets towards charitable causes. Depending on the size of their estate, these plans can be very simple or very complex, and the legacy DAF or donor advised fund can provide multi-generational support **[00:04:00]** for the donor's philanthropic legacy.

In this podcast, we will share the step-by-step approach for donors and their financial and legal advisors to use to create a legacy DAF. We will share details that should be considered in this process and important questions donors should ask before establishing any legacy donor advised fund. CAF America is a nonprofit charitable organization serving as a donor advised fund sponsor and is an expert in both **[00:04:30]** domestic and international grantmaking. Often, we facilitate legacy giving advice by donors as bequests to charities, both inside and outside the United States.

Our use of both expenditure responsibility and equivalency determination uniquely positions us to expertly design your philanthropic legacy. Your legacy might be to support an American 501(c)(3) registered organization, or it might be to support one of hundreds of thousands of charities in over 110 countries **[00:05:00]** around the world, or, and this is where it gets really interesting, you might want to support both types of charities.

With CAF America, we can manage both through one single donor advised fund, legacy donor advised fund, both types of giving. One unique aspect of a legacy donor advised fund account is the ability to continue charitable giving beyond your lifetime with the oversight and assistance of professionals. The flexibility of the legacy DAF, or donor advised fund, can provide **[00:05:30]** for advice-giving by your future generations, through the provision of a succession plan, or can be utilized to speed up the transfer of your philanthropic giving after your lifetime via a single gift or a series of grants.

Today, we're going to discuss with you and your advisors what you should be thinking about when you're considering leaving a bequest gift. Joining me today is our Senior Vice President of External Affairs, Jessie Krafft, who along with our team of advisors is available to work with you to create **[00:06:00]** a truly customized legacy donor advised fund that will secure your wishes for a lasting legacy by documenting your philanthropic wishes and creating a fund that will be administered by our professionals on your behalf. Welcome here to the Caring And Funding Podcast, Jessie Krafft.

**Jessie Krafft:** Thanks, Ted.

**Ted:** Jessie, let's start with some basic definitions. What is the difference between estate planning, which our listeners might be more familiar with, and legacy planning?

**Jessie:** Sure. **[00:06:30]** Estate planning is a legal process through which you'd plan for the disposition of your assets after you're no longer here, and then legacy planning is the charitable

process for which your values and your charitable work that you've done throughout your life lives on.

**Ted:** Since we're focused on definitions, let's also share, what is, sort of the same thing as legacy giving, estate planning, and bequests. Where does that word fit in?

**Jessie: [00:07:00]** Bequest are assets that are given in a will or a trust. As was mentioned earlier, legacy planning can include a bequest option, but a legacy donor-advised fund, which is our primary topic today, secures more than just the transferred assets. It secures your legacy with professional guidance in support of the charities and the causes that you care about most. You can fund your legacy DAF through a bequest instruction in your will, and then these two vehicles can work in tandem with each other to **[00:07:30]** secure your legacy.

**Ted:** Back to the legacy giving and why should it matter to our listeners today for their own planning or for their client's planning, depending on whether you're listening today as the donor, or as an advisor to donors or both?

**Jessie:** Yes, legacy giving is the charitable focus of an individual as well, which comes from charitable bequests that they might designate for all or a portion of their assets left in their will. **[00:08:00]** It can be an important long-term source of funding for charities, or it could just be an important one-time gift to a charity and you can really make that decision based on the size of the philanthropic support that you wish to provide.

**Ted:** Many donors and their advisors may be thinking of the tax reform signed into law in 2017 that changed the tax benefits to estates for making such philanthropic gifts. What do donors and advisors need to know about that change in the law?

**Jessie: [00:08:30]** The Tax Cuts and Jobs Act of 2017 went into effect January, 1st, 2018, and it did a few things. It increased the estate tax exclusion from \$5.45 million to \$11.4 million and the exemption for married couples under this new law is now \$22.8 million. This means that estates under that amount would likely not have a tax benefit for this type of bequest. **[00:09:00]**

It doesn't mean that you shouldn't be planning ahead or thinking about this type of giving in your will, because this particular act has a sunset provision, which means it will revert back to the 2017 exclusion amount when we hit the year 2026. Whether or not Congress extends this sunset or makes the change permanent is up for discussion and unknown at this point but often the **[00:09:30]** act of legacy giving is more about creating a sustainable charitable legacy that you can be proud of and that persists over time more than just the simple tax deduction to your estate. It's still important to consider, even if you currently wouldn't benefit under this Tax Cuts and Jobs Act.

**Ted:** Very good, what are the questions, when answered, can lead to a really well-articulated and designed legacy donor advised fund?

**Jessie:** Yes, this [00:10:00] is something we can really work with you on, but I think there are really five important elements of a charitable bequest that donors should consider when they're planning their legacy DAF. First and foremost is the charitable purpose. What does my legacy plan say about who I am? What charitable goals are most important to achieve or contribute toward in my bequest?

The second piece that we encourage donors to think about is the impact, so who benefits [00:10:30] from the legacy gift? Do the beneficiaries and their programs fit within the legacy that I want to leave behind? Am I confident that my gift is achieving the outcomes that I want? This is again a question we can work on with you based on your wishes.

The third thing is the stakeholder. Who have I recruited to ensure that my wishes are followed? Advisors or trustees or a donor advised fund sponsor or the charity themselves. Do I trust [00:11:00] these different recruits to preserve the mark that I want to make on the world? That's another important question that you should think about. Sustainability. How resilient is my legacy? Once that initial donation is expended, what will be the long-term impact of that gift? What do I need to consider when creating the bequest to ensure that I do make a lasting impact?

Then the last thing we recommend that you think about in this process is regulatory compliance. Is my bequest made in a legal manner? [00:11:30] That's something you often rely on your advisers and legal counsel or your tax advisor to assist you with. Then on top of that who is responsible for ensuring that my bequest is not used inappropriately. This is where an advisor like CAF America or a DAF sponsor could come in and we'll talk about that a little bit more later.

**Ted:** It's a lot of questions, Jessie, but something not to be taken lightly. How can a donor best put their vision of a legacy into practice?

**Jessie:** [00:12:00] It is a lot of questions and can seem a bit overwhelming but our team of advisors here work with donors or can work with donors to put together a plan to make their vision a reality. At a high level, our services are a vehicle for donors' charitable legacies, and we're able to work with them to refine their intended impact to help recruit those stakeholders and then to build long-term sustainability and resilience into those legacy giving plans to create long-lasting and more impactful [00:12:30] bequests.

There are really two steps that we'd start with here. One is of course placing the language in your will to properly fund the legacy donor advised fund if that's the vehicle you choose to work with and then two, establishing that donor advised fund to be the receiving fund at the time it's funded, after your passing. Many donors and their advisors work with CAF America because we're known for our guarantee of the 3Rs which are [00:13:00] risk mitigation, regulatory compliance, and reputation protection.

In addition to our ability to help you frame your bequest as we've been talking about depending on your charitable goals, we focus on this regulatory compliance piece which includes how we can work with foreign charities as part of your bequest. The regulations that guide this giving are complicated

but our expertise in this area of granting to foreign organizations [00:13:30] enables you to plan giving for both domestic and international projects from one single fund.

**Ted:** Well, that's great. One single fund. Jesse, when we discuss legacy giving with donor clients or their advisors or representatives, we generally present two options. Let's start by talking about the first option which is leaving a single legacy gift. What does this process involve?

**Jessie:** Under this single legacy gift, donors may name an [00:14:00] intermediary 501(c)(3) organization like CAF America as a beneficiary of their will or estate and they can leave instructions for their executor to communicate the grant suggestion once the intermediary receives the gift. Under this option, the responsibility to ensure the correct grant advice is followed rests with the executor. The single gift option doesn't require any fund or any other setup in advance so you don't have to sign an agreement to open a DAF. [00:14:30]

But it's really important still under these instances and these circumstances to discuss this planning with CAF America so we're aware that this gift might be forthcoming in the future and we can best advise you on the language to use in your will to ensure that we can seamlessly manage the bequest once we receive it.

**Ted:** Let's move on to the second option. The legacy donor advised fund or legacy DAF. Can you speak to the flexibility of a DAF to fulfill [00:15:00] a donor's charitable legacy under what we will refer to as the second option?

**Jessie:** Donors may set up a donor advised fund and name the fund as the beneficiary of their will or estate. There are really three beneficial features of using a DAF for this purpose. One is at the time the fund is created the donor will be able to designate a standing grant advisor for the use of their donations that are made into the fund. The second piece is that the DAF remains [00:15:30] inactive until contributions are made into it, at which point CAF America or the designated intermediary will carry out the standing grant advice.

This actually can happen and be requested during the donor's lifetime so donors can begin using the DAF during their life for their charitable giving, or it can begin in the event of their demise. So, it can be just as part of their will. A great benefit is that it can be used for philanthropic activity [00:16:00] now and/or later just based on the donor's discretion and their planning.

The third piece just to note here is that donors may designate their family members or any other individuals for that matter as advisors to the DAF as part of a legacy plan that potentially engages the next generation in philanthropic giving. There's other types of planning you can do here in terms of what legacy you want to leave and how you want to engage with your family down the road.

**Ted:** I suppose, Jessie, [00:16:30] depending on how much is funded into the DAF and how long you expect that that may last, it could be several generations that then have a succession plan there as well.

Jessie, for many donors, making a real impact is a key consideration for donors when they're planning a bequest gift. Walk me through how CAF America can help donors ensure that they're not just giving their money away to a good cause which is, of course, a great thing to do, but are creating the impact that they really want to entrust [00:17:00] their charitable legacy with.

**Jessie:** Regardless of which vehicle our donors choose, CAF America's model allows us to make grants to eligible charitable entities. The beginning of our process involves answering the question, "which organizations are we granting to?" For donors, the choice of a grantee or a beneficiary or even just a region or issue area focus for their legacy is one of the most important decisions that they'll make.

In this process, [00:17:30] we can help them either identify a charity that matches their vision or simply confirm whether the organization or organizations they want to support are eligible and that we would be able to make a grant to them and that we'd be able to execute the advice attached to their bequest. The other piece is that donors who are looking to implement a sophisticated charitable legacy plan can use a number of criteria to select a grantee or set of grantees. [00:18:00]

For example, we've worked with many donors over the years who just come to us looking to support programs in specific geographies, issue areas, or other more general considerations, and we can help them identify those beneficiaries. Defining who the bequest actually helps which is the beneficiary here is sometimes the most consequential part in the first step.

**Ted:** Jessie, as you're working through that [00:18:30] of course, there are a few people that come to mind and you and I have had the privilege of personally being involved in the administration of a wonderful legacy donor advised fund that was created and funded by Helen Rinker Ashley. Mrs. Rinker Ashley entrusted CAF America to administer her simple, but profound instructions. She literally only left us two lines of instruction for these funds. First, do nice things for the people of Voditsa, Bulgaria, and second to educate the [00:19:00] children there.

Talk just a little bit about how Helen Rinker Ashley's example can give donors and their advisors today an idea of how all of this can work even if you don't have a grand plan for your estate.

**Jessie:** I just love this story. I think it's just Helen Rinker Ashley is a wonderful example of a bequest that we've managed and the way to manage your legacy. In this case, [00:19:30] Mrs. Rinker Ashley left CAF America of a bequest simply for the benefit of a village in Bulgaria named Voditsa, as Ted explained, and this is where her parents had been born which was the connection for her. In this case, she didn't advise giving to a specific charity but to a general cause or in her case those two causes that were near and dear to her heart within the small Bulgarian village.

Following her passing, the legacy DAF she'd [00:20:00] with us was funded, CAF America immediately went to work on the ground in Bulgaria and, Ted, I know you've been there yourself several times, to find and support grantees and projects that would achieve the donor's goals. One of the wonderful aspects about this legacy was that the needs of the village have changed over time, which is really important that we were able to activate and assist those needs as they have changed

over time. **[00:20:30]** Because her advice was so general, we were able to ensure the funds were spent on the most relevant issues for Voditsa at its current state and that's where CAF America's expertise and partnerships and networks really come in.

**Ted:** Of course, as you said, some of the things that we have funded with her bequest could not have been known to her at the time when she was alive and may have gone to visit the place where **[00:21:00]** her parents were born and lived. For instance, at that time the water system in Voditsa was working, but years later with her bequest, they needed a new water system for the entire village and we were able to fund that for them.

Just things like that setting up a donor advised fund having a legacy of that sort. Of course, her name is now famous throughout the region. **[00:21:30]** It's a great legacy that she left and of course, a wonderful example, our work in Voditsa as you know, continues today, I think it's important to address this notion of giving domestically and internationally with regulatory compliance and from that perspective, what is the distinction here and what do advisors and donors need to know about this dual-purpose legacy donor advised fund in CAF America?

**Jessie:** Yes, as I mentioned **[00:22:00]** earlier, CAF America has specific expertise in giving internationally. Domestic giving is, of course, fairly simple if the organization is a registered charity. Even with a domestic charity, if the donor has specific goals for their bequest, instead of just making a general-purpose grant, then CAF America can work with that organization to assemble a grant agreement for that program that both fits the donor's wishes as well as ensures that it works within **[00:22:30]** the charitable mission and activities that the organization is already conducting.

That's something even with a domestic charity to consider that you could put a grant agreement in place. Then for international grants, the donors that aren't registered as charities in the US, the donor must also consider that they need to work with an intermediary that has the expertise and protocols in place to comply with the IRS and federal regulations that govern cross-border giving. **[00:23:00]**

In many cases, these internationally-focused bequests will also need local expertise to help identify the right recipients on the ground or to potentially manage local regulation, so it's important to consider these aspects when you want to work internationally.

**Ted:** Is there anything else that we need to or should share with advisors and donors today, in terms of how this single DAF option for advising **[00:23:30]** gifts both domestically and internationally works?

**Jessie:** It's important to know that a DAF has a great flexibility to allow for both domestic and cross-border giving. If your intention is to give internationally, you just need to ensure that the DAF sponsor that you're working with, the organization that's actually hosting the fund, has the international grant-making capabilities and expertise that they'll need to execute your program because it's definitely much more complex than giving **[00:24:00]** domestically.

This option is not available with all donor advised funds so it's just important to check with the provider to understand their current capacity for international grants if that's something that you're building into your will and your bequest.

**Ted:** As was pointed out, establishing a legacy donor advised fund allows donors to more easily design, adapt, and target the impact of their donations. Some donors might want all of their money disbursed at one time, while others, like Mrs. Rinker Ashley, [00:24:30] might want their charitable giving administered over a number of years or even in perpetuity. Are all of these possible from a single donor advised fund, all of these various options?

**Jessie:** Yes, all of these options are possible and there are a few ways they can manage this. They could, one, disperse the entirety of the fund at a single time to a designated organization and then the fund could close after that if that were the desire. [00:25:00]

Or, they could provide standing advice to that fund to make regular grants from the fund to a designated organization or even groups of organizations. It can go to several charities to create lasting impacts through that invested DAF. In this instance, you could set an annual or even a varying timeline, so monthly or quarterly grant advice for grants to be distributed from your DAF. It could be a standing grant recommendation to that organization over time. [00:25:30] Since the funds are invested, the grants could be paid out just based on the interest earned, which allows the funding to continue for many years.

The third piece here is that we could also work with the donor to create a unique plan for their grantmaking, or for the investment of the fund, just based on the donor's preferences, and philanthropic goals. That's something based on your long-term goals with this organization, and with your legacy, we can [00:26:00] work on that standing grant advice, or the distribution amounts and things like that, to help you plan for that impact over time.

**Ted:** Okay, well now I understand where you're going with this. Funds could flow through the donor advised fund directly to the advised charity, but now you're bringing up this option for an invested legacy donor advised fund. Can you share with our listeners maybe an example of an invested donor advised fund that is accumulating [00:26:30] interest for the grantee's benefit in the long-term?

Tell us how this design helps our listeners understand how they might leverage a legacy donor advised fund for something similar that they might want to establish or someone that they're advising.

**Jessie:** Yes, we have another great story here of a French artist, actually. His name was Mario Avati. He wanted to see his art form of printmaking to be continually supported after his death. [00:27:00] As some of you might know, printmaking is very much a dying art so he wanted to support this over time. His bequest is basically a grant of roughly \$40,000 each year to a designated museum in France, which is really creating a lasting legacy.

Because it's this amount each year, it's extending even further into the future that the donor's bequest [00:27:30] and impact that they're having. The fund itself accrues interest over time, which adds to the charitable funds available for disbursement. With a vehicle like this, the invested DAF actually can act as an endowment that can be established without needing to create a trust or a private foundation. And it's not subject to the lifetime survivor limits of a charitable trust or the recording and disbursement requirements of a private foundation.

Also, as I said earlier, CAF America continues to [00:28:00] champion the donor's legacy without the need to recruit and maintain relationships with trustees or boards of directors. It's a bit of a simpler way to manage a long-term giving solution or to manage an endowment.

**Ted:** This legacy donor advised fund is really truly a nimble mechanism for donors to be able to accomplish what they would like to accomplish. We've discussed two different approaches here: Mrs. Rinker Ashley [00:28:30] had a concept for her philanthropy that was focused on a small village in Bulgaria and the children living there. She entrusted CAF America to fulfill those wishes.

Now you're sharing Mr. Avati, who had a very specific cause in mind. He wanted to help keep a specific art form alive for future generations and so he's entrusted that with CAF America to make sure that will continue to happen. What if a donor or an advisor's client wants to name a specific charity, [00:29:00] but they don't have a specific grantee or a program in mind. Is CAF America able to recommend grantees or commit to making decisions about a specific program to fund at a time the bequest is received? How does that sort of advisory work?

**Jessie:** Yes, again, this is another important question to ask of your DAF sponsor that you choose to work with for your legacy or whoever you're working with to manage your bequest, to ensure that they do [00:29:30] have these capabilities of this type of advisory and CAF America is able to make this type of recommendation. For example, in the Helen Rinker Ashley case, the donor specified only the town and a broad cause that they wanted to support, and we used our network on the ground and our expertise to identify those projects and the local organizations that have helped and are still helping to bring the donor's vision to life.

**Ted:** Jessie, what if a selected grantee [00:30:00] ceases to operate or is unable to use the funds for their intended purpose. How can this flexibility be built into a DAF agreement? Obviously, someone who's giving many years or decades after they've passed, how do those things get worked into an agreement?

**Jessie:** Yes, it's always important to consider the possibility that the recommended grantee could close their operations or cease managing the program you'd like to give to or other factors that [00:30:30] could hinder your bequest. It's always important to have a backup plan and that's definitely something that you're able to write into the DAF agreement. Within the agreement itself, you could recommend a specific grantee with an additional clause that could be activated in the event that your recommendation is no longer feasible.

It could really be as simple as noting that the funds should go to a similar issue area in a similar geographic region as your first choice charity if your initial recommendation can't be [00:31:00] carried out and then CAF America or your DAF sponsor could then identify that organization that best follows your wishes if the need arises in the future. Or that secondary recommendation could be something entirely different. It doesn't have to be the same issue or cause or even region. It's really up to you and this is a conversation we could have with you as you're building your bequest or opening your DAF with us.

**Ted:** Jessie, thank you. You've been so informative and insightful [00:31:30] today. I'm mindful of the time, so I want to summarize what we've shared today, a legacy, your legacy, the legacy of your client can be secured through a legacy donor advised fund. The flexibility of the service provides room for great creativity to match that of the donor, and to put into practice the dreams that they have for future generations.

Again, thank you, Jessie, and for the audience who's joining us today, if you have any questions or are interested in building your legacy with CAF America, please contact [00:32:00] us at info, I-N-F-O, @cafamerica.org or just give us a call at our office at 202-793-2232. Thank you for joining us.

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