

Gift Policies and Guidelines

Planned gifts are a substantial part of the philanthropic support received by the Tax Foundation (the Foundation) to support pro-growth tax policy. These gifts usually involve tax and other forms of financial and estate planning activities. Often a significant portion of the assets a donor owns are used to create and fund the gifts.

Because of (i) the size of most planned gifts; (ii) the responsibilities the Foundation often incurs for asset management and (iii) the liabilities incurred for beneficiary payments, the Board of Directors establishes these policies and guidelines to assure that our planned gifts are a productive and positive aspect of our fundraising efforts.

I. General Policies

A. Protection of Donors' Interests

The Foundation and its volunteer and staff representatives shall always consider the interests of our donors as the first priority in planning gifts. This shall include, but not be limited to the donor's financial situation and philanthropic interests, as well as any tax or other legal matters discovered by our representatives while planning for a gift. A donor shall not be encouraged to make a gift which is inappropriate, in light of the donor's personal or financial situation and the donor shall be advised if a gift proposed by another party or parties is contrary to this policy. A donor may expect any representative of the Foundation to reflect the dignity and respect consistent with the charitable purposes of the Foundation.

B. Confidentiality of Information

Information acquired by any representative of the Foundation about a donor or the donor's assets or philanthropic intentions shall be held in strict confidence. Donors will be encouraged to notify the Foundation of their planned gifts, including bequests, and all such information will be kept confidential unless written permission to release it is obtained from the donor or his or her counsel.

C. Legal Counsel

The President of the Foundation or his designee shall seek the advice of the Foundation's legal counsel in all matters regarding planned giving which involve any agreement which is binding on the Foundation. All planned gift agreements provided to a donor by the Foundation will be created by or reviewed by legal counsel. Each prospective donor shall be urged to seek the advice of independent legal counsel prior to the Foundation acting in any way as a party to a planned gift. A donor who chooses not to engage counsel must acknowledge this decision in a written statement addressed to the President before the President may accept a planned gift.

It is neither the province of the Foundation nor its volunteer or staff representatives to give legal, accounting, tax or other advice which is usually reserved to the donor's counsel while acting on the Foundation's behalf. This policy does not preclude any duly licensed person representing the Foundation from advising a donor or such donor's counsel regarding a gift with appropriate disclosure to the donor and to the Foundation.

D. Authority for Negotiation

The President of the Foundation is authorized to negotiate planned gift agreements with prospective donors. The President may delegate such authority in writing to another officer of the Foundation with the approval of the Chairman of the Board or his or her designee.

E. Authority for Approval

It is the intent of this section to establish reasonable limits for the approval of planned gifts to protect the Foundation, its donors, and its volunteer and staff representatives. Planned giving agreements must be approved in writing by the President or his or her designee, as set forth below, by the Chairman of the Board or the Chairman of the Planned Giving Committee (Planned Giving Chairman). Any Executive Officer of the Foundation (that is, the Foundation's Chairman, Vice Chairman, Treasurer, Secretary, President or Vice President) is authorized to sign planned giving agreements that have been approved as provided herein. Any responsibility assumed by the Foundation in relation to a planned gift must be consistent with the policies of the Foundation. The Foundation may act as trustee, co-trustee, successor trustee, charitable remainderman, and charitable income recipient. The Foundation may enter into charitable gift arrangements, authorized under law, by contract and bargain sale.

The President or the Planned Giving Chairman is authorized to approve and accept, on behalf of the Board of Directors, any planned gift made by will or other estate planning instrument which is unrestricted in nature and funded with cash, publicly traded securities or other financial instruments with a ready market. Gifts of real property, interests in an operating business or gifts that are restricted to designated purposes will be approved as provided below.

II. Approved Gift Plans

The President or the Planned Giving Chairman is authorized to approve the following agreements without regard to gift amount: Any planned gift in which the Foundation will receive the charitable interest, or a portion thereof, and in which the Foundation is neither named as trustee nor has other fiduciary responsibilities or liability. Other gifts may include the following methods.

A. Outright Gifts

This is the most preferred gift form because of the immediacy of its usefulness in our work. Outright gifts should always be encouraged first when possible. Outright gifts may take the form of cash and gifts of property.

B. Bargain Sales

This gift form creates an outright gift of part of the value of property because the donor's sale price is less than the fair market value. Usually, a donor sells property to the Foundation and the Foundation, in turn, sells the property to another buyer.

C. Charitable Remainder Trusts

A charitable remainder trust allows a donor to give property or cash that will be used by a third party (the trustee) to earn an income that is paid to income beneficiaries (usually the donor or donors) for life or a term of one to twenty years. At the end of the income payment period, the trust principal is distributed to the charitable remainderman such as the Foundation. There are two forms of the charitable remainder trust - the unitrust and the annuity trust.

The unitrust provides an income based on a set percentage of the trust principal. The payout percentage is chosen by the donor at the outset. Each year the trustee multiplies the value of the trust fund by the percentage chosen and pays that amount in annual, semiannual, quarterly or monthly payments. This is the most flexible charitable trust arrangement and is the arrangement of choice for most donors.

The annuity trust provides a fixed dollar income which is chosen by the donor at the outset. The payments don't change and will come from trust principal should earned income not be sufficient. Payments may be annual, semi-annual, quarterly or monthly.

D. Charitable Lead Trust

The trustee of a charitable lead trust (also known as a charitable income trust) pays the income of the trust to a charity or charities and, at the end of a fixed period of time, the trust corpus is transferred to one or more non-charitable beneficiaries. These gifts can produce dramatic gift and estate tax savings, providing a way for a donor to be philanthropic and preserve assets for family or other heirs.

E. Charitable Gift Annuity

The gift annuity is a contract between the Foundation and the donor which provides for a gift from the donor and annuity payments to the donor. Payments may be annual, semi-annual, quarterly or monthly. The gift annuity process is highly regulated by some State Insurance Commissioners who require substantial reserves be established for each gift annuity. The assets of the Foundation are pledged to assure payments will be made. The annuity payments are determined by a table published by the American Council on Gift Annuities (ACGA), a national consortium of organizations that issue gift annuities. Generally, rates for persons over the age of seventy (70) exceed the rates available for unitrusts or annuity trusts and this type of gift may be preferred by a donor of advanced age.

F. Life Estate Contracts

This arrangement allows a donor to make a gift of the remainder interest (that which is left after the donor's lifetime) in a personal residence or farm to the Foundation, and reserve to himself or herself a life estate (the privilege to live in the home for life). These gifts are contracts. The donor agrees to pay all property taxes due, maintain the residence and provide adequate insurance. The Foundation will accept outright life estate gifts or those made in exchange for a gift annuity.

G. Gifts of Life Insurance

A donor may give a paid-up life insurance policy to the Foundation, naming the Foundation as both owner and irrevocable beneficiary. A donor may give a life insurance policy to the Foundation that is not paid up if the policy has a current gift value or if the President of the Foundation is assured that there is a reasonable expectation that the donor will continue to make gifts that will be at least equal to the cost of premiums for that policy. Should a contributed life insurance policy require additional premiums to remain in force, the Finance Committee shall determine the prudence of accepting such contributions and the donor shall be made aware that the Foundation cannot guarantee that policies requiring premium payments will be maintained.

H. Bequests

Gifts made by will are encouraged and accepted as provided in these policies. The Foundation may act as trustee for charitable trusts and gift annuities established by will so long as the non-charitable interest in the trust or annuity so established does not exceed thirty years.

I. Approval Standards

The Planned Giving Chairman or the Chairman of the Board is authorized to approve agreements, as listed above, which are funded with real property or an interest therein so long as the President provides: (i) An appraisal or market evaluation of the value of the property (fair market value) furnished by a qualified professional appraiser for real property and (ii) an assessment of the property regarding environmental regulations and liabilities showing the Foundation will not incur more than a generally accepted normal business risk by taking the property as owner or trustee; and (iii) sufficient information to accurately determine the ownership of the property and any mortgages or liens that may be filed against the property; (the Foundation shall not accept encumbered property which would cause the Foundation or any charitable trust to be disqualified as a charitable entity); and (iv) assurances from the donor that he or she will act as required by applicable laws and regulations to ensure that the resulting trust or other planned gift will qualify as a charitable entity; and (v) the gift is the entirety (100%) of the property or there is a commitment from the donor or other owners to immediately sell the nongifted interests in such property (provided that a majority of the Executive Officers of the Foundation may waive this requirement upon a showing of good cause).

The Planned Giving Chairman, with the approval of a majority of the Executive Officers of the Foundation, is authorized to approve outright gifts, charitable gift annuities, or bargain sales that are funded with encumbered property or an interest therein so long as there is a reasonable expectation that the property can be readily sold and the Foundation will not have more than \$200,000 at risk to remove the debt entirely. The President and the Treasurer may recommend to the Executive Officers, for majority approval, that a debt against donated property not be removed to conserve our capital.

The Planned Giving Chairman or the Chairman of the Board is authorized to approve agreements funded by the gift of business interests or portions thereof so long as the gift is consistent with state and federal law, the business is not engaged in activities or practices that would cause harm to the image or purposes of the Foundation, the donor offers adequate assurances or there is independent information that establishes that there are no environmental hazards present and there is a reasonable expectation that the business or portion donated to the Foundation can be readily sold at fair market value. It is not the intention of the Foundation to hold or own an interest in any operating business not directly associated with the Foundation's charitable purposes for any period of time other than that required for an expeditious sale.

The President and the Planned Giving Chairman, acting together, may request the consideration of any planned gift that is not provided for in these policies (provided the potential gift is permitted under applicable law and regulation) by the Board of Directors at a regular or special meeting called for the purpose of consideration of the request. Should the Chairman of the Board determine that the Board cannot act in the time necessary to satisfy the prospective donor, he or she may convene a meeting of the Executive Officers of the Foundation, the Foundation's legal counsel and other persons as the Chairman may deem necessary, to hear and consider a proposal by the Planned Giving Chairman. Approval of a planned giving agreement by a majority of the executive officers shall be sufficient to authorize the Foundation's acceptance of such agreements. The provisions of the Foundation's bylaws regarding meetings shall apply to this situation, as shall all applicable policies of the Foundation.

III. Donor Advised Funds

A. DAF Creation

Donors may contribute to the Foundation the property with value greater than the minimum required DAF amount of \$10,000. All Donor Advised Funds shall be component funds and the exclusive property of the Foundation, subject to the control of the Foundation with respect to all distributions of income and principal. Funds may be given a name or other appropriate designation as requested by the Donors.

B. Advisors

Donors may advise the Foundation in writing regarding the distribution of the fund income and principal. In addition, the Donors may designate one person to act as their spokesperson in advising the Foundation. The Donors may designate one or more children in writing to serve as advisor for a term of up to 2 years after the death of the Donors.

In the event that no written advice is received by the Foundation with respect to distributions of income or principal for (3) consecutive years, or in the event of the death of the Donors with no appointment of a child as advisor for the above term of years, the Foundation may deem that no person has further interest in advising with respect to the fund. In this circumstance, the Foundation may give written notice to the last known designated advisor or spokesperson that the right to give further advice and counsel is terminated. Any remaining DAF assets shall then be the exclusive property of the Foundation.

C. Distributions from the DAF Fund

The Foundation shall make distributions from the fund of principal and income. The Donors shall recommend at least annually each year the appropriate distributions. All recommendations shall be for distributions in amounts in excess of the minimum distribution amount of \$1,000. No distributions shall be made to fulfill a legally binding pledge of Donors. Distributions shall be made to qualified Section 501(c)(3) charities and may include fields of interest.

D. Administration

The Foundation shall accept contributions and administer the fund in accordance with resolutions of the Board of Directors. These resolutions and policies may be amended as required by the Board. While the DAF is a component fund of the charity, the assets may be commingled for investment purposes and invested in units of any common investment fund of the Foundation. The Foundation shall have the right to convert any gifted property to securities or other assets of a common fund. Each fund may be assessed charges and fees similar to those applicable for similar funds managed by the Foundation.

E. DAF Remainder

This DAF is intended to be operational during the lives of the Donors. If Donors notify the Foundation in writing, a child or children may serve as successor advisors for the permitted term of years and the fund shall continue for that additional term. After the death of the Donors or the expiration of the term of years, as applicable, the fund shall become the exclusive and unrestricted asset of the Foundation. The Donors and, if selected, the child or children of the Donors, may prior to the termination date make recommendations for distribution of principal from the fund upon the termination date.

IV. Grant Guidelines

A. Field of Interest Funds

The Foundation may establish one or more field of interest funds. Gifts designated for those funds shall be added to the respective fund. All distributions of principal and income from such funds shall be for that designated purpose.

B. Grant Distributions

Foundation funds may be distributed to other qualified exempt charities or expended directly for charitable purposes. All distributions shall be consistent with the charitable goals of the foundation and shall comply with the exclusively charitable purpose requirement of federal law.

V. Administration

A. Fiduciary Responsibility

The Foundation may serve as trustee of charitable remainder or lead trusts.

The President of the Foundation shall ensure that all assets held in trust are invested so as to produce results consistent with the mutual best interests of the donors and the Foundation. The President shall report, as directed by the Treasurer, to the Finance Committee regarding the state of these investments. The Finance Committee shall provide an annual report to the Board of Directors on all investments held in trust, their condition and any changes in policy or operation the Finance Committee recommends.

Following the approval of a planned gift, the President shall determine and report to the Treasurer a course of action for the investment of trust assets. Consistent with applicable laws and regulations, the President may utilize the services of financial professionals who serve the donors who establish charitable trusts. The President is authorized to terminate said relationships should they no longer serve the best interests of the Foundation or the beneficiaries or conflict with the Foundation's duties and responsibilities as trustee.

B. Charitable Intent of Donors

It is the policy of the Foundation not to enter into planned gift arrangements that do not reflect at least some donative intent on the part of the donor. The President will document in the file for each planned gift the scope and nature of the donative intent expressed by the donor.

C. Restricted Gifts

Donors may choose to restrict the use of their planned gifts to any purpose consistent with the charitable purposes of the Foundation. So long as the restriction is general in nature and not contingent on specified future acts by the Foundation or any subsidiary of the Foundation, the President may accept the restriction and bind the Foundation to its provisions. Donors may offer successively less limiting restrictions if they wish. Each donor will be asked to agree that, should the restrictions they choose not be appropriate at the time of the maturity of their gift because of changes beyond the control of the Foundation; the Board of Directors may use the gift in a manner that meets the then current greatest need.

D. Types of Gifts

In general, the Foundation may accept any gift that is provided for in law or custom so long as such gift is consistent with the other provisions of these policies and guidelines. The Board of Directors may, on recommendation of the Planned Giving Committee, determine that the Foundation will emphasize or concentrate its efforts on encouraging one form or type of gift. At all times, however, the preferences of the donor, as noted in Section I, shall be more important than the Foundation's preference for charitable gifts.

E. The Foundation's Endowment

Unless otherwise restricted by the donor, planned gifts will become part of the endowment upon maturity. These funds may, at the discretion of the Board of Directors, be used for any of the charitable purposes of the Foundation.

A donor may choose to restrict a planned gift to create an endowment fund upon maturity. Those funds will be held in perpetuity and the income they generate will be used for the purposes designated by the donor provided that such purposes meet the criteria specified herein. Unrestricted endowment income shall be used to support the Foundation's annual fund. Donors may designate their endowments to be Personal Endowments, which will carry the name designated by the donors, and income from those funds will be given to the Foundation or other Foundation services in the name so designated.

F. Recognition

Planned gifts are usually the largest and most helpful gifts the Foundation receives. To express the Foundation's gratitude for this generous support, the President is authorized to offer permanent recognition of this philanthropy.

G. Foundation Services, Costs, and Compensation

The solicitation, planning and administration of planned gifts is a complex process involving the donor's philanthropic, personal, tax and financial considerations. For this reason, donors often seek the counsel of legal, tax, and other experts (gift planners) who represent clients in the planning process and in implementing gift decisions.

The Foundation will provide, as referenced in Section III, documents and other materials that will expedite the formation of planned charitable gifts. Those costs will be borne by the Foundation. The Foundation shall not pay any fee or commission, directly or indirectly, for the right to receive a gift (because gift planners should be compensated by those they represent and to whom they are responsible and for whom services are provided).

No person in the employ of the Foundation may accept any compensation or material benefit from a donor as a result of the gift planning process.