Elements of a Well-Drafted Gift Acceptance Policy

By Ted R. Batson, Jr., Partner

A well-drafted gift acceptance policy is an excellent tool your organization can use to:

- Guide fundraising staff;
- Inform donors;
- Address gifting concerns before they become issues; and
- Answer “yes” to a Form 990 inquiry.

To achieve these goals, your organization’s gift acceptance policy should address several key questions, including:

- How do your fundraising efforts and gift acceptance policy support your organization’s mission and purpose?
- What gifts will you accept?
- Who in your organization is authorized to accept a gift and what constitutes acceptance?
- What conditions or restrictions will you permit to be placed on a gift?
- How will your organization respond to a donor who wishes to make a gift that is antithetical to your mission or statement of faith or may cause your organization embarrassment?
- How will your organization respond to a gift designated for a purpose that has not been approved by your governing body or other authorized party?
- What conditions must be met before gifts of certain assets will be accepted?
- Which gifts will require a formal gift agreement?
- Who will bear the cost of transfer?
- Who will bear the carrying cost of assets that cannot be liquidated immediately?
- Who will bear the cost of substantiating the value of a gift the donor will claim on his or her income tax return?
- Who will bear the cost of legal representation?
- When will your organization agree to retain a gift versus liquidating a gift as soon as is practicable?
- What information will be reported in the donation acknowledgment provided to the donor?
- How will a donor’s gift be valued when determining eligibility for membership in giving circles, naming opportunities, or other forms of donor recognition?
- Who in your organization is authorized to sign a donor’s IRS Form 8283?
- When will a gift be refunded?
- What types of planned gifts or alternative giving techniques will the organization offer and accept?

Integrating Fundraising and Gift Acceptance With Your Mission

For many nonprofits, fundraising is just as integral to the fulfillment of mission as are program activities. This isn’t just because monies raised provide the financial resources to accomplish your mission. Rather, there is a direct correlation between the communication of your mission and your donors’ passionate response. Fundraising becomes the means by which inspired donors join with you in accomplishing your mission.

For this reason, your gift acceptance policy should be a natural extension of your mission, inviting donors to join you on the journey. As a policy statement, your gift acceptance policy will necessarily set boundaries governing “yeses” and “nos.” These boundary lines should be carefully drawn to guide donors and staff as they work together to fund your organization’s mission.

Accepting Gifts

Many gift acceptance policies simply identify acceptable gifts based on the nature of the asset offered. However, determining which gifts you should accept involves more than simply deciding which types of assets you are willing to receive. As an initial matter, your gift acceptance policy should determine which officer or officers of your organization are authorized to accept a gift on behalf of your organization.

There are several reasons why is this important:

- A donor may attach a condition or restriction to a gift with which your organization is unwilling or unable to comply.

- A well-meaning donor may offer a gift because of their wish for your organization to start a new program or activity that would be a distraction from your strategic vision.
- A donor may wish to contribute property that will require significant operating cost, storage cost, or maintenance expense to hold until it can be sold.
- A donor may wish for your organization to retain a gift for an extended period of time for reasons that are unrelated to your mission.

A gift also may be unacceptable for reasons unrelated to the type of gift. Examples include:

- The deed to property that is subject to environmental contamination.
- Gifts that would link your organization to a person or group that would cause your organization embarrassment.
- Gifts that are antithetical to your organization's mission, such a gift to a church of stock in a company that makes and sells pornography.

In the case of a charitable remainder trust or charitable lead trust, the gift acceptance policy should state:

- Whether the exempt organization will serve as trustee,
- The minimum remainder interest or lead interest fraction upon which the organization is willing to so serve,
- The types of assets that may be contributed,
- Who is responsible for payment for the drafting of the trust agreement, and
- Any administrative fee that will be charged.

Similar provisions should be incorporated for gifts of life insurance, bargain sales, conservation easements, and gifts of remainder interests in a personal residence, farm, or ranch.

This article on how to Enhance Your Fundraising with Planned Giving has additional details.

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For these reasons, requiring that one or more designated officers review and formally accept certain gifts will ensure that your organization has the opportunity to carefully consider the impact of the gift on your organization before accepting it. However, merely appointing such an officer is only part of the equation. Both your donors and your staff should be informed of the requirement for gifts to be formally accepted to ensure that expectations are set and the policy is observed.

Planned Gifts

If an organization plans to accept various types of planned gifts, the gift acceptance policy should clearly state which types of planned gifts will be accepted and the parameters under which they will be accepted.

For example, if the organization issues charitable gift annuities, the gift acceptance policy should state:

- The minimum contribution for which a gift annuity will be issued,
- How the gift annuity rate will be determined,
- In which states the donor may reside before the charity will issue the gift annuity, and
- What types of assets will be accepted in exchange for a gift annuity.

Substantiating the Donor's Gift

A donor is required to obtain a contemporaneous acknowledgment of any contribution in excess of $250. Accordingly, your organization should provide the donor a letter acknowledging receipt of the contribution that includes the following elements:

- The name of the exempt organization that received the gift.
- The date of the gift.
- A description of the property contributed in sufficient detail to identify with specificity the property contributed. This may be the legal description of real property, the number of shares of stock or units in a business, a photograph of a work of art as well as a narrative description, and other similar means of identifying with specificity the property contributed.
- A statement of the dollar value of any benefit given the donor in exchange for the gift. In the alternative, the statement may say that the only benefits received by the donor were intangible religious benefits.

If the donor's noncash gift has a value in excess of $5,000 (not including securities valued on an exchange), the donor will be required to obtain an appraisal and include IRS Form 8283 with his or her return. (For contributions between $500 and $5,000, the donor is required to include IRS Form 8283 but is not required to obtain an appraisal.) Where the donor's noncash gift is greater than $5,000 and requires a qualified appraisal, the exempt organization is also required to sign the donor's IRS Form 8283. Your gift acceptance policy should designate the officer responsible for signing IRS Form 8283.

Conclusion

A gift acceptance policy is an integral part of any exempt organization's best practices policy manual. A well-drafted gift acceptance policy will provide your donors and staff with a positive guide to your policies for accepting gifts. This in turn should lead to a more efficient and donor-pleasing gift-giving experience.

CapinCrouse offers services to help guide you in this area. Please contact us to learn more.

About the Author

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As a certified public accountant and tax counsel, Ted advises exempt organizations of all sizes on a wide range of issues. This includes consulting on tax and employee benefit related matters, representation before state and federal tax authorities, and assistance with firm audit or advisory engagements to formulate advice and counsel on important operating and tax issues. Ted also leads the firm's tax preparation practice, including IRS Forms 990 and 990-T and related state forms.

Note: Although licensed to practice law in Indiana, Ted's services through CapinCrouse do not involve the practice of law and consequently do not result in the creation of an attorney-client relationship.

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