



**Policy Title:** GE2017 - Donations to the University of Memphis

**Subject Area:** Finance

**Responsible Official(s):** Vice President for Advancement

**Responsible Office(s):** Office of Development

## Policy Statement

Gifts to benefit University of Memphis (the “University”) that are appropriate for and supportive of the University’s mission and goals are vital to the University’s success. The acceptance of all gifts should be coordinated through the Advancement Division in collaboration with other appropriate University officials.

Most gifts to the University are received by the University of Memphis Foundation (the “UMF”) or the Auxiliary Services Foundation (the “ASF”), not- for-profit, tax-exempt corporations in the State of Tennessee. The Foundations exclusively benefit the University of Memphis and accept, manage, and disburse private support to the University.

Acceptance of gifts to the foundations are also subject to the policies of the foundations.

## Definitions

**Gift** - A voluntary, irrevocable transfer of assets which is intended for the benefit of the University where no good or services are expected, implied or forthcoming in return to the donor. Gifts can come from individuals, corporations, partnerships, private liability companies, private foundations, community or corporate foundations, donor-advised funds, public charities, estates, and trusts.

For gifts involving naming of buildings, facilities, or academic programs, please refer to the University’s Naming Policy ([GE2023 - Interim Naming and Recognition](#)).

**Gift Acceptance and Naming Committee** - A committee selected by the President and charged with responsibility of review and recommendation of naming proposals to the President or Board of Trustees. The committee shall be led by the Vice President (VP) of Advancement and, at a minimum, shall include representatives from Academic Affairs, Business & Finance and Legal.

## Policy

The purpose of this gift acceptance policy is to govern the analysis and acceptance of charitable gifts for the benefit of the University of Memphis. The policy should be interpreted considering the following principle:

- A gift should not be accepted by the University without the prior consultation of the University department, unit or program benefiting from the gift and unless it is compatible with the mission of the University and its programs.

While this document is intended to provide guidance regarding acceptance of gifts, donors are ultimately responsible for ensuring that the proposed gift furthers their charitable, financial and estate planning goals. The University does not provide advice regarding legal, accounting or tax related matters to its donors.

This document is informed by the standards and definitions provided by the Council for Advancement and Support of Education (CASE) in its publication, CASE Reporting Standards and Management Guidelines, 5th edition 2020. CASE is generally accepted as the leading source on gift acceptance policies, providing consistent and comparative gift reporting across the various reporting institutions. It is recognized that in certain instances the guidelines are non-specific. Therefore, it is the intent of this policy to provide guidance and standards in all gift areas as they apply to directing a gift for the benefit of the University.

## Procedures

### Gift Review and Acceptance

- The Advancement Division has a fiduciary responsibility for accepting or declining all gifts except in the instances where the Gift Acceptance and Naming Committee is required to determine if gifts meet the standards and requirements of the gift acceptance policies. Gifts are directed to the Advancement Services unit of the Advancement Division for processing. All employees, personnel, officers, volunteers, and trustees should comply with the gift acceptance policies herein. Once a gift has been evaluated and determined to meet the standards outlined in this document, the gift will be recommended to either the UMF or ASF. (**Related Forms: UMF and ASF's by-laws**). The information and analysis necessary to reach a decision and accept a gift will vary depending on the nature of the gift. The University will endeavor to reach a decision as quickly as possible and advise the prospective donor accordingly.

Certain gifts, including but not limited to those involving unusual funding arrangements, may be reviewed by the Gift Acceptance and Naming Committee (GAC) as described within these guidelines. The GAC will make recommendations to the University President, who will have the final decision on the restrictive nature of a gift and its acceptance or refusal.

- Every effort will be made to ensure that each gift is beneficial to, and in the best interest of, the University and the donor. The purpose and use of a gift as specified by the donor should be appropriate to the functions and character of the University as determined by the University's policies and procedures, its Board of Trustees and in accordance with all applicable laws. Furthermore, in each circumstance, the University will endeavor to abide by the guidelines and recommendations as established and set forth by CASE. Factors considered in this assessment include the donor's intent, financial position, the effect of the gift on the donor's individual estate, potential heir disputes and the donor's mental state. The University has the right to refuse any gift that is not in keeping with the mission and values of the University.
- Gifts should not be directed for purposes that are so narrowly restricted that effective use or administration - either immediately or over time - will be problematic. A gift may be either unrestricted by purpose or restricted to a specific purpose within the range of permissible designations. Gifts with the following restrictions are deemed inappropriate or require further examination:
  1. Restrictions which are intended to benefit or disenfranchise individuals based on a State of Tennessee or federally protected class.
  2. Those which may pose a liability to, or excessively encumber the University. Gifts requiring a commitment by the University to spend its funds, either upon receipt or in the future, in addition to amounts donated or pledged, should receive prior approval from the GAC. Examples of such gifts include:
    - Matching funds by the University
    - A commitment to continue a project after termination or exhaustion of the gift
    - Financing of construction projects
    - A commitment to finance and/or administer an undertaking outside the routine functioning of the Foundations or any part thereof (e.g., accruing of income to apply to the gift objective)

If restrictions placed on an accepted gift should be rendered impossible, impracticable, illegal, or wasteful, and if the donor(s) are unavailable to consent to lift or modify the restriction, the University may consult with the appropriate officials and may, if necessary and desirable, seek appropriate approval to release or modify such restriction(s).

### **Types of Gifts**

Gifts may take the form of pledges (i.e., a commitment to give over time or at a future date), outright gifts (i.e., immediate contributions of cash, securities, cryptocurrency, gifts-in-kind, real property or patents and intellectual property), matching gifts, deferred gifts (i.e., a bequest intention or planned gifts) or any other legal instrument which benefits the University.

- Pledges — Pledges are commitments to give a specific dollar amount by some specific future date. A pledge may be fulfilled by a one-time payment or through periodic installments (e.g., monthly, quarterly, annually) of equal or varying amounts. Conditional pledges are intended to be fulfilled after satisfaction of imposed conditions.
- Current gifts — Current gifts may take the form of cash gifts, gifts in-kind, personal and tangible property, real property, securities, patents, and intellectual property.
  - Cash gifts — Cash gifts may take the form of US currency, approved forms of foreign currency approved by the VP of Advancement, check from a domestic bank, credit or debit card contribution, electronic fund transfers (EFTs) and wire transfers.
  - Gifts in-Kind — An in-kind gift is a non-cash donation of tangible property. Gifts in-kind might include collectibles, equipment, off-the-shelf unmodified software (as permitted under IRC §197(e)(3)(A)(i)), printed materials, animals (when related use), food and drink when hosting dinners, original literary works or manuscripts, art, software rights and other intellectual property (see Patents & Intellectual Property below), precious metals and materials or other property that may be of use to University programs.
  - Patents and Intellectual Property — Advancement personnel should coordinate with the VP of Advancement to identify the relevant issues associated with gifts of intangible personal property, such as software rights, royalties, copyrights (except as described in IRC §1221(a)(3) or 1231(b1) (1)(c)), trademarks, trade names and patents. This may also include items that derive their value from intellectual content (data/information) or other intangible properties.
  - Property — Real property includes improved or unimproved land, personal residences, farmland, commercial property, bargain sales of real property, qualified conservation easements, rental property, mineral interests, and time shares.
 

A contribution of the right to use real property, (e.g., the use of a conference room at a hotel for a faculty retreat at no charge or the use of a home for a visiting faculty member), will not be accepted as a charitable contribution.
  - Cryptocurrency — The University may accept cryptocurrencies as gifts.
  - Securities — Publicly Traded Securities (stocks, bonds, and mutual funds) traded on major U.S. and foreign exchanges may be accepted by Advancement personnel as determined by the VP of Advancement.
- Matching gifts — Many companies have matching gift programs that will match employee donations to 501(c)(3) organizations.

- **Deferred Gifts** — Deferred, or planned gifts, include charitable bequests, beneficiary designations, charitable gift annuities, charitable remainder trusts, charitable lead trusts, gifts of life insurance and gifts of a residence, home, or farm subject to a life estate retained by the donor.

### **Payment of Fees Related to Gifts**

- **Finder's Fees and Commissions** - The University of Memphis will not pay fees to any person as consideration for directing a gift for the benefit of the University. This prohibition does not restrict the ability of the University to contract with professional fundraising counsel or other professional fundraising advisors.
- **Appraisals** - Appraisal will be done at the donor's sole cost and expense and should be issued by an Independent Qualified Appraiser as defined by the Internal Revenue Code (IRC) within 60 days of the contribution date. When products with an estimated value over \$5,000 are donated by their manufacturer, an inventory list accompanied by an invoice, letter from the manufacturer or other published information which substantiates the value of the donated items may be provided in lieu of an appraisal.
- **Professional Fees** - The University of Memphis will not pay fees incurred by donors for professional services in connection with the completion of a gift, legal, appraisal and survey fees. The University of Memphis may obtain and pay for its own legal, investment, financial planning, and accounting advice as it deems necessary.

### **Refunds, Return of Gifts or Pledge Modifications at the Request of Donor**

- A gift for the benefit of the University is generally irrevocable. In rare circumstances, a gift may be returned because it has become impractical or impossible or for administrative reasons.
- Refunds may be made for overpayments, duplicate donations or donations received in error. Refunds will be returned using the original method of payments, cash donations will be returned via check. For donations made by credit card, the refund will be credited to the same credit card in which the donation was made. The preferred method of delivery of a refund check will be by mail. A refund check provided in-person will require a signature of receipt and a picture ID.

Refund requests must be made to the Office of University Advancement and approved by the VP of Advancement. Refunds of \$10K and above require the additional approval of the Chief Financial Officer.

- Requests to modify, write-off or cancel a pledge that has not yet been paid requires the approval of the VP of Advancement or their designee. Pledges of \$10K or more will require the additional approval of the Chief Financial Officer. Any pledge made as collateral for a Foundation loan will also require approval from the Foundation's Managing Director.

## **Appendix**

### **Generally, No Quid Pro Quo**

Gifts are not generally subject to an exchange of consideration or other contractual duties between the University of Memphis and the donor, except for bargain sales and certain deferred gifts as set out in these procedures, although objectives may be stated, and funds may be restricted to a specific charitable purpose acceptable to the University of Memphis.

Some memberships and fundraising activities (including special events, “galas” and ceremonies) may provide a benefit (i.e., premium) to the event registrant in exchange for their registration (e.g., meal, beverages, entertainment, keepsake item); the cumulative value of which will be subtracted from the total amount to determine the contribution portion of the fee or premium eligible for a tax-deduction. Not all membership and event registration fees will contain a charitable portion eligible for a tax-deduction. When multiple benefits exist, registrants will not be permitted to singularly select which benefits to accept or reject. When waiving benefits, the registrant must waive all associated benefits, and should do so at the time of the event or membership registration. Benefits, once accepted, cannot be waived because they went unused.

### **Examples of Non-Gift Transactions**

A gift is not:

- a payment to or for a specific individual for non-charitable or educational purposes
- a payment that is conditional on a future event or the substantial probability of return to the donor or another individual(s)
- an involuntary payment on behalf of a charitable organization (e.g., a payment to charity in lieu of court fine)
- payments or grants from federal, state and city governments, and gifts or grants from foreign governments
- the right to use an individual’s property, such as a vacation home, rent-free or reduced rent office space or equipment (see Partial Interest)
- investment income on previous gifts to the University of Memphis (e.g., dividends, royalties, rents)
- interest income earned on gift funds
- transfer payments from University departmental funds
- contract revenues (e.g., revenue from corporate partnerships, affinity programs or charitable sales promotions)
- the value of professional services
- expenses associated with conveying a gift (appraisal fees, shipping, insurance, etc.)

### **Grants**

Grants are revenues received from individuals, industry, foundations and other sources, for the support of University programs and projects. Grants normally fall into two categories:

- Non-Specific Grants are those received in support of restricted programs or projects, but which do not result from a specific grant proposal, no specific resources or services are committed, and no accounting of the use of the funds is required.
- Specific Grants are those received in accordance with the terms of approved grant proposals for specific programs and projects. Commitments of University's resources or services are made as a condition of the grant, and an accounting of the use of the funds may be required by the grantor.

### **Contracts**

Contracts are official agreements between the University and a third party where property owned, or services rendered by the University or its authorized agents are given in exchange for payment in accordance with the terms of the agreement. Payments made pursuant to contracts are not gifts.

### **Partial Interest**

A partial interest donation is one in which the property owner gives away some rights, while retaining other rights in the property. In most instances a donor cannot deduct a contribution which is less than their entire interest in the property; however, exceptions include an "undivided portion" (e.g., a 1/3rd interest) in the donor's interest in a property, remainder interest in a personal residence or farm, charitable remainder trust or pooled income fund or qualified conservation contribution (See Title 26 CFR § 1.170A-14).

The University of Memphis may internally recognize a donor for partial interest contributions; however, it should not treat partial interest donations as tax-deductible to the donor. In all cases, the University will comply with regulations as established on partial interest donations and set forth in IRS Pub. 526 Partial Interest in Property; IRS Pub. 561 Partial Interest in Property Not in Trust; Reg. Title 26 CFR § 1.170A-7; Reg. Title 26 CFR 25.2522©-3.

### **Examples of Partial Interest Donations**

- Use of home, office space or land while donor retains title and ownership
- Title and ownership transfer in home, office space or land, while donor retains rights to use, mineral rights, harvesting rights, etc.
- Use of motor vehicle or equipment while donor retains ownership
- Transfer of ownership in motor vehicle or equipment, while donor retains use rights
- Donation of property or business with exclusive buyback rights for same value or less than assessed donation value

- Donation of licensed software for use, while developer retains ownership of all licensing and copyrights
- Donation of physical artwork while donor retains rights to all digital images and reproduction

### **Accepting Gifts for the Benefit of Specific Individuals**

Gifts are generally not accepted for a specific individual or a small number of individuals because this is not sufficiently charitable and involves “private benefit” prohibited to public charities like the University of Memphis Foundation.

Gifts that are made for University research projects, even when carried out by named individuals (e.g., “cancer research under the direction of Dr. Smith”), would generally be tax deductible and accepted by the University, since the ultimate beneficiary is the public.

Any gift that raises doubt about whether it involves a gift to an individual rather than a University program or objective should be vetted with the Gift Acceptance and Naming Committee.

## **Related Documents, Policies and Forms**

[UMF By-Laws](#)

[ASF By-Laws](#)

[GE2023 - Interim Naming and Recognition](#)

### **Last Revision Update Log: 11/29/2022**

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