

DARIEN LIONS CLUB FOUNDATION

Gift Acceptance Policy & Procedure

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GIFT ACCEPTANCE POLICY & PROCEDURE

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GIFT ACCEPTANCE POLICY & PROCEDURE

(Adopted _____)

METHODS OF GIVING

The Darien Lions Club Foundation (hereinafter called Foundation) assumes no responsibility for the eligibility or valuation of gifts for tax exemption purposes. The donor must rely on his attorney, tax consultant or counsel.

1. Present Gifts

a. Cash

b. Gifts of Property --

Stocks, bonds, real estate and other properties such as jewelry and art objects. Property should be marketable within a reasonable period of time. For purposes of evaluation, six months to a year shall be considered a reasonable period of time for property to sell. This would mean the appraisals obtained from outsiders through The Foundation's Advisory Committee should require that such estimation be made on the basis of selling the property within one year of time.

The Foundation will not accept from a donor any encumbered assets into the trust.

If given the opportunity, The Foundation Advisory Committee may assist the donor in determining his better tax deduction (the donor transferring the security to The Foundation versus selling it outright and contributing the proceeds). NOTE: Gifts of appreciated assets can include the following: Securities (stocks, bonds, etc.); gifts in kind (equipment, art treasures, coin collections, stamp collections, etc.); real property (homes, farms, buildings, etc.); inventions, patents and copyrights; mineral rights (oil wells); fractional or remainder interest; deferred arrangements (life income, contracts, unitrusts, etc.). Since each of these items requires special attention, it should be noted that certain policies will apply to those of spendable or readily marketable assets and a different set of policies will need to apply to those which need appraisal and need to be put on the market in a special condition.

SECURITIES

- c. Gifts of readily marketable securities will be accepted by The Foundation.
1. All readily marketable securities will be sold immediately upon receipt, either through The Foundation's broker or the open market. (NOTE: If the number of shares involved is sufficient to have a depressing impact on the price of the stock in the opinion of The Foundation's broker, the sale may be extended over a period of time deemed necessary to avoid such an impact.)
 2. Stock controlled under Securities and Exchange Commission Rule 144 will be held until the restriction of the sale expires and will then immediately be sold in the same manner as in 1 above.
 3. Gifts of securities that will not be accepted:
 - a. Securities that are accessible or in any way could create a liability to the **DARIEN LIONS CLUB FOUNDATION**.
 - b. Securities that by their nature may not be assigned (such as Series "E" savings bonds).
 - c. Securities that on investigation have no apparent value.
 5. Exceptions to this policy may be made by a majority vote of The Foundation's Board of Directors.

Procedures for Receiving Gifts of Securities:

1. When the donor indicates his intent to give appreciated securities, obtain as much information as possible regarding the specific securities being offered by the donor.
2. Send a letter which the donor may use to request that his broker transfer the securities from his account to an account in the name of the **Darien Lions Club Foundation** at The Foundation's broker. Inform the donor that written verification of any stock transfer is generally required and that you will send all pertinent information regarding the valuation of the gift.
3. Send a letter informing The Foundation's broker of the pending transfer of stock. This letter should include instructions to the broker to sell the security unless an appropriate exception has been properly noted.
4. The last step is to determine the date of the gift and the value of the charitable deduction. In an electronic transfer such as this, the date of the gift is the day on which the securities from the donor's account are re-registered to the account of The Foundation. Calculate for yourself the actual charitable deduction by referring to the prices quoted in the newspaper on the date of the gift. (The broker may tell you what the securities sold for or the net price after commissions, which do not necessarily determine the charitable deduction.) Tear out of the newspaper that page on which the stock is shown and include this in the donor's giving-record file. Highlight both the date and the prices.
 - a. Calculate the value of each share:
 - Stocks - the average between the high and low prices;
 - Bonds - the mean between the bid and asked prices;
 - Mutual shares - the redemption price.
 - b. Multiply the above value by the number of shares transferred. This will be the charitable deduction, which will be entered into the donor's giving record, regardless of the actual amount received by The Foundation.

PROCESSING GIFTS OF SECURITIES

- I. The Donor-to-Donee Transfer of Appreciated Securities
 - A. When the securities are given by mail, the procedure is two-fold: Send the unendorsed certificates in one envelope and the signed stock powers in another, omitting the name of The Foundation.
 - B. When the securities are given in person, the donor can deliver both the endorsed certificates and the signed stock powers, again omitting the name of The Foundation.
 - C. When the securities are given through the donor's broker to an account in The Foundation's name and held at The Foundation's broker, the transfer will be through transmittal of The Foundation's DTC # to the donor or his broker along with any special delivery instructions. This is the simplest procedure and the one that will be used most frequently, since very little stock currently is held by individuals in the form of a paper certificate.
 - D. The contribution date is an important factor in determining the charitable deduction and it is different in all three of the above instances. Basically, the contribution date is when the donor has irrevocably relinquished possession of the securities. This is determined by the postmark, if they were mailed; by the date of delivery, if they were hand-delivered; by the date of re-registry, if the broker electronically transferred them.
 - E. The method of valuation of the securities determines the charitable deduction. For listed securities this is the average of the high and the low price; the mean between the bid and ask price for bonds; the redemption price for mutual shares on the contribution date.
- II. The Transfer of Stock Will Occur Through the Donor's Broker
 - A. Donor sends a letter to his broker asking that a specific number of shares of a specific stock be transferred to your organization as a gift. Often, but not always, the donor will send a photocopy of the letter to you to alert you that a gift is forthcoming. When a donor does not know to whom to address a letter, he will usually direct it to your treasurer.
 - B. A stock power must accompany any gift of stock. Otherwise, your organization cannot sell the shares. A stock power is a form which, when signed by the donor, represents evidence that intends to sell or transfer ownership of the stock. If the donor does not send a signed stock power to his broker, the broker must send a blank stock power to the donor for his signature and return.

Sometimes the donor must have his signature on the stock power "guaranteed." This means taking the stock power to a local bank (not a savings bank) where the donor presents identification confirming that he is the person signing the stock power. When the bank is satisfied with the identity of the donor, it places on the stock power a rubber stamp, which says, "signature guaranteed." In effect, the bank is guaranteeing that the donor is the person who signed the stock power. This procedure is inconvenient for donors, but it is one way of protecting securities from theft. When the broker knows the donor, he may accept a stock power without the "signature guarantee," but he will affix the same kind of rubber stamp on the stock power himself. Thus, he guarantees the signature, and the transfer can take place.

C. The broker either calls or writes to your organization to deliver the news of a stock gift. The broker will ask for your tax identification number and for disposition instructions.

"Sell the stock and send the proceeds payable to the **Darien Lions Club Foundation** to the attention of (name of person) at (address)."

"Transfer the shares into the name of the **Darien Lions Club Foundation**. We wish to retain the shares as an investment. Please send the stock certificate to (name of person) at (address)."

"Transfer the shares through Depository Trust Company into our account at (name of broker). Our (broker's) DTC number is _____ and the address is."

"Transfer the shares to our (account number) at (broker's name, address)."

III. Giving Part of a Stock Certificate

Donors don't always know that they can give you only part of the shares represented by one certificate, for example, 40 shares of a 100-share certificate. Instruct the donor to write a letter to you or to his broker along these lines:

Dear (donor's broker):

You are holding in my account 100 shares of IBM Common Stock. I would like to contribute 40 shares to the **Darien Lions Club Foundation**. Enclosed is a stock power signed in blank. My signature has been guaranteed. Please take the necessary steps to effect the following transfer.

Please send 40 shares to: **Darien Lions Club Foundation**
1702 Plainfield Road
Darien, IL 60561

The **Darien Lions Club Foundation's** Tax I.D. Number is _____. Please continue to hold the remaining 60 shares registered in my name in my account.

Sincerely,

Donor

IRS Form 8283

A donor is required to report all non-cash gifts valued over \$500 on IRS Form 8283, but no qualified appraisal is necessary for publicly-traded securities. For securities to be considered publicly traded, daily quotes must be available to the public. For gifts over \$10,000 of closely held stock, a qualified appraisal is necessary.

Rule 144

Rule 144 applies in situations where the stock was acquired from the corporation in a nonpublic offering.

If a stock certificate is restricted, it may carry a legend on the back stating that certain requirements must be made before the stock can be sold. The requirements involve a holding period and also limitations on the volume and timing of shares sold. If your organization receives restricted stock, you must comply with the regulations of Rule 144 or face penalties.

VALUING A STOCK

Most donors contribute securities that are traded regularly on national or local stock exchanges or in the Over-The-Counter market (OTC). The value of a gift of stock is the average of the high and the low on the date of gift. Stocks can be valued only on regular business days and not on weekends or holidays when the stock market is closed. Therefore, a donor who hand delivers stock to you on a Saturday or Sunday would use the price for the preceding Friday -- the last business day for which stock quotes are available prior to the gift.

The Foundation's decision to sell or retain the shares is irrelevant to the gift transaction and to the donor's deduction. For this reason, the value of a donor's gift should never be stated as the amount of the net proceeds you receive on the sale -- at least not in your formal acknowledgment letter to the donor.

An easier way to handle stock gift acknowledgments is to simply acknowledge a gift

of "X" shares of ABC Stock on (date). Remember, this date is when the broker becomes your agent for sale or retention.

Bonds have a fixed yield on the face value and they have a maturity date. When you are dealing with a bond instead of a stock, the process is different. A corporate bond does not have a high and a low for the day. The quotes are based on what it closed for. Further, the price of the bond is quoted in relation to its face value. So, for example, you might have a bond that is selling for "90." This means that you pay \$90 for every \$100 of face value and the bond is selling at a discount. If the bond is selling at "102," it means you are paying \$102 for every \$100 of face value. When you pay more than 100, you are buying the bond at a premium. If a bond is selling at "100," it is said to be selling at par.

WHEN IS A STOCK OR BOND GIFT COMPLETE?

A gift of a stock or bond is complete:

1. On the day when you receive hand delivery of the unendorsed certificate together with a properly signed and guaranteed stock or bond power (or when you receive the endorsed certificate);
2. On the day the certificate and stock or bond power are postmarked as mailed to your organization or to your agent (broker).
3. On the day when the transfer of ownership is made on the corporate books. If the donor instructs his broker or banker to transfer securities into the **Darien Lions Club Foundation's** name, the gift is complete only when the actual transfer takes place and not when the instructions are given. Transferring securities this way usually takes several weeks and can cause two potential problems: 1) the gift may be pushed into another tax year; and 2) the price of the securities may fluctuate, thus changing the value of the gift.

INSURANCE

Any insurance policy that can be paid up is acceptable as a charitable gift to the **Darien Lions Club Foundation**. The donor makes a gift of policy to The Foundation. The gift is irrevocable. If the donor chooses to continue paying the premiums on the policy, **The Foundation** will hold the policy until maturity or death of the insured. If the donor does not choose to continue payment of premiums, **The Foundation** will turn in the policy for its cash surrender value or a different paid-up policy, depending on which option provides the greatest advantage to The Foundation.

A policy of any size can be given. It is the responsibility of the donor to establish the value of the gift for tax deduction purposes.

Programs that promote insurance gifting by The Foundation staff must meet the following criteria:

1. No questions asked (guaranteed issue)
2. No promotion of the underwriting company
3. No donor-agent involvement

Why give life insurance. An irrevocable gift of a life insurance policy, with the **Darien Lions Club Foundation** as the named owner and beneficiary of the policy, presents a particularly appealing way of making an outright charitable gift. It allows for acknowledging the act of philanthropy now; permits a much larger gift than could otherwise be made currently; and is made from assets that are not currently needed for income production, are not generally looked to as a capital resource for later in life, and may in fact have become wholly unneeded after the donor's children have passed out of his support requirement.

Overview. In the United States an income, gift, and estate tax charitable contributions deduction is allowed for a gift of a life insurance policy to charity. A donor names the **Darien Lions Club Foundation** as the irrevocable beneficiary of the policy and assigns to **The Foundation** all of the ownership rights in the policy, including the right to borrow against the policy and to surrender it for cash.

Qualified appraisal -- if the value of the insurance policy exceeds \$5,000, the formal appraisal requirements will apply. Because a qualified appraisal from a qualified appraiser -- generally one who is disinterested -- is required, it appears that neither the insurance company nor the insurance company's agent can provide the donor with the appraisal. In most cases, however, a qualified appraisal is easily obtained by another local insurance agent because the valuation of life insurance is a relatively straightforward matter.

Ordinary income property. If an insurance policy is sold, any gain recognized because of an increase in the value of the policy over the insured's cost basis is treated as ordinary income. Thus, if a life insurance gift is made to The Foundation, the amount deductible for income tax purposes is limited to the donor's cost basis in the policy or the policy's value, whichever is less. Reason: The amount of a charitable gift of property must be reduced by the amount of ordinary income that would be recognized if instead the property were sold. [See the explanation of the charitable reduction rules at §8007 et seq. The donor's cost basis in an insurance policy is the aggregate net premiums paid (the gross amount of the premiums paid, less dividends and any outstanding loans on the policy).] For income tax purposes, an insurance policy's value depends on the type of policy.

Non paid-up ordinary life policy. The income tax deduction for a premium-paying life insurance policy is generally equal to an amount that slightly exceeds the policy's cash surrender value. The deduction equals the policy's "interpolated terminal reserve" at the date of gift, increased by the proportionate part of the donor's last pre-gift premium that covers the period extending beyond the date of the gift. Any outstanding policy loan is subtracted.

Paid-up policy. If no premiums remain to be paid on a policy, the deduction equals the single-premium amount that the insurance company would charge to issue a comparable policy for the same face amount for a person the age of the insured.

Endowment policy. An endowment policy is a contract under which the insurance company will begin payments to the owner on a certain date, unless the insured dies before that date, in which case payments will begin then. It is valued either as a non paid-up policy or a paid-up policy depending on whether premiums remain to be paid on it while it is maturing. At maturity, the policy's value is measured by the proceeds.

Endowment policy receipts are taxable income under the annuity rules (that is, payments exceeding recoverable basis are ordinary income), so the charitable reduction rules will apply to reduce the deduction value. However, if the policy matures or is cashed in the year of the gift, the deduction value is not reduced because the donor will have to recognize ordinary income in the same year.

CAUTION -- A donor who contributes an endowment policy to The Foundation will later have to recognize as taxable income the difference between the cash surrender value of the contract at the time of the gift and the donor's basis in the policy. Reason: Anticipatory assignments of income are not permitted. Given this fact, it is surely incumbent upon The Foundation to give reasonable consideration to its donor's tax situation when deciding the time to dispose of such a policy.

Gifts of Insurance Policies/Procedures

1. Accounting

The Foundation must be named both beneficiary and irrevocable owner of an insurance policy before the policy will be recorded as a gift. The cash surrender value of the policy when given, rather than its face value, will be recorded as the amount of the gift. If the donor pays further premiums on the policy, the entire amount of the premium payment will be credited as a gift.

The difference between the cash value and the insurance company's settlement at the death of the donor will not be reported as a gift but rather as a gain in the disposition of assets.

If The Foundation receives the proceeds of an insurance policy in which it was named as beneficiary but not owner, the full amount received will be reported as a gift.

2. Procedures for recording life insurance policies are as follows.

A. A new policy naming the **Darien Lions Club Foundation** as beneficiary and irrevocable owner:

- (1) The Foundation receives the policy indicating that the **Darien Lions Club Foundation** is beneficiary and irrevocable owner. The policy is then filed in an appropriate safe place with corresponding indication in a donor file inventory.
- (2) If a policy is received "paid in full," a copy of said statement shall be recorded with the policy.
- (3) If the policy has premiums due, an annual billing cycle will be set up in order to secure payment for the policy from the donor.
- (4) If the policy is not paid up and donor defaults on the policy, policy will be cashed in for its actual cash value and gift recorded as same.

B. For an existing policy changing beneficiary and irrevocable owner to the **Darien Lions Club Foundation**, the process should be as follows:

The Foundation receives a copy of the policy indicating that The Foundation has been named the beneficiary and irrevocable owner and stating that the cash value on the date of the change has been paid. The policy is recorded and stored in an appropriate safe place, donor information is recorded in the appropriate data file, and the cash value of the gift noted for gift receipt purposes.

IN-KIND GIFT

1. In-kind gifts are solicited based only on anticipated projects and known need;
2. That the cost of shipping be appended to the project budget by The Foundation Advisory Committee once items are identified and cost of shipping is known.

Unless otherwise restricted, The Foundation must have the approval of the donor to retain or sell a gift in kind, with the assets received from the sale to be placed in the general operating fund of The Foundation as approved by the Board of Directors.

The following are unacceptable restrictions or conditions in connection with gifts in kind:

1. The acceptance of such gifts shall not involve significant additional expenses for their present or future use, display, maintenance, or administration.
2. No financial or other burdensome obligation or expense is or will be directly or indirectly incurred by The Foundation as a result thereof.
3. The Foundation officers or staff members do not furnish valuations of appraisals to donors in connection with gifts in kind to The Foundation.
4. Gifts of tangible personal property (such as books and paintings) will not be accepted if made on the condition or understanding or expectation that the items will be loaned back to the donor or persons designated by the donor for life or extended periods of time to be determined by the donor.
5. **In-kind gifts or donations** -- i.e., contributions of equipment, supplies, or other property or service as distinct from a monetary grant or donation -- shall be accepted only when they have been solicited by The Foundation and when there is an identifiable potential end user. The **donor** is responsible for the assignment of value, if any, to the gift. Arrangements for shipping and storage shall be worked out between the donor and The Foundation, with the primary responsibility resting with the donor.

DEFERRED AND OTHER ESTATE-RELATED GIFTS

The terms and conditions of gifts to create charitable remainder unitrusts, charitable remainder annuity trusts, charitable income, ("lead") trust, or charitable gift annuities can be accepted by The Foundation in consultation with the legal counsel of the Darien Lions Club Foundation.

When people talk about charitable remainder trusts in the United States, they are referring to one of two highly structured plans created by the Tax Reform Act of 1969:

The Charitable Remainder Annuity Trust, and
The Charitable Remainder Unitrust.

The above trusts are different from each other in three basic ways: 1) the form of the beneficiary's payment, 2) the ability to make further contributions only to the unitrust, and 3) the way in which the donor's tax consequences are calculated.

Preparation of Documents

The trust's governing instrument is prepared either by the donor's attorney or by his tax counsel.

As a precaution, when a donor produces a trust document through his own attorney, it still is a good idea to have the document reviewed by The Foundation's counsel -- someone who presumably is working with charitable remainder trusts regularly. No amount of precaution is too great, because the IRS will disallow the donor's tax deduction if the trust does not meet strict drafting requirements.

In the broadest sense, the concept and benefits of a charitable remainder trust are similar to those of the pooled income fund.

- ❑ There is an irrevocable transfer of property by the donor;
- ❑ The donor retains a right to receive income from the property or creates an income interest for another person;
- ❑ The donor receives a partial income tax charitable deduction in the year of the gift;
- ❑ The donor incurs no immediate capital gain tax on the transfer to and subsequent sale by the trust of highly appreciated, long-term assets;
- ❑ At the end of the trust's term, the trust principal distributes to **The Foundation**.

In other ways, the charitable remainder trust is far more flexible than either the pooled income fund or the gift annuity.

- ❑ The donor chooses the trustee and, in most cases, can be his own trustee;
- ❑ The donor chooses both the type of payment (fluctuating or fixed) and the amount of the payment (stated as a percentage of the gift amount);
- ❑ The trust term can be measured by 1) the life or lives of persons living when the trust is created, 2) by a term of years (not to exceed 20), or a combination of the two;
- ❑ The investment strategy of the trust and the taxable character of the income can be tailored to meet the unique needs of the donor;
- ❑ The donor can choose the frequency (monthly, quarterly, semiannually, or annually) and timing of the payments;
- ❑ The donor can choose one or more charitable organizations to share in the trust principal upon termination of the trust.

An annuity trust provides a fixed dollar payment annually. The payment must be at least 5 percent of the initial gift net fair market value of the property transferred to the trust. The donor chooses the payment upon creating the trust, and no additional gifts can ever be made to the trust.

When the trust earns more than the required annuity payment, the excess income is added to principal; when the trust earns less, the trustee must invade the principal to make the required payment.

Crediting

Gifts made to establish charitable remainder trusts and gift annuities should generally be credited at full fair market value, i.e., the full amount of the assets given. In those instances where it is anticipated that a portion of the principal will be returned to the beneficiary in order to meet a pay out obligation, the gift should be credited at its net realizable value, i.e., the remainder interest as calculated by The Foundation for financial statement purposes.

CHARITABLE LEAD TRUST

In reporting the value of a charitable lead trust, only the income received from it each year during the period of operation of the trust should be included in The Foundation's gift totals. Example: A donor establishes a charitable lead trust with The Foundation by transferring \$500,000 to it with the stipulation that \$25,000 will be made available to The Foundation each year for 10 years, after which the assets are to be returned to the donor. Only the \$25,000 received by The Foundation each year should be included in The Foundation's annual gift totals.

Trusts Administered by Others

The value of assets of gifts in trust that The Foundation or the donor has chosen to have administered by others should be included in The Foundation's gift totals for the year, provided The Foundation has an irrevocable right to a predetermined portion of the income or remainder interest.

Valuation of Gift:

As a result of F.A.S.B. 116 & 117, it may be necessary to account for lead gift trust monies at the time the gift is realized. The actual assignment of value for such a gift should be verified by and with the tax accountants.

GIFT OF REAL PROPERTY

Acceptance Process for Gifts of Real Estate

An offer of a gift of real estate presented to the Board of Directors of **The Foundation** for approval.

No financial or other burdensome obligation or expense shall be incurred directly or indirectly by The Foundation as the result of a gift of real property, particularly where the donor wishes to retain a life estate for himself or others in the property. Expenses for maintenance and real estate taxes shall be borne by the donor where the life estate is retained in such property.

1. Before acceptance, all offered gifts of real property will be appraised by a qualified appraisal firm totally independent of The Foundation.
 - a. This appraisal will perform four functions:
 - (1) Establish the donor's tax deduction.
 - (2) Provide The Foundation's accountant and auditors a reasonable value at which to carry the assets on The Foundation's books.

- (3) Establish an asking price for the property.
 - (4) Determine if the property should be accepted.
 - b. As stated in IRS regulations, the donor will be asked to pay for this appraisal, since it is deductible to him. The appraisal must be acknowledged by The Foundation in writing and attached to the donor's tax form.
 - c. The property will be listed with a broker(s) in the area in which the property is located for sale at that appraised value.
 - d. The Foundation should be willing to wait a reasonable period of time to receive an offer in this appraised value range.
 - (1) While reasonable time will depend on the market activity within the given region, a bench mark should be established at one year defining reasonable, and fluctuations made according to that, based on market volatility within a given region.
 - e. If because of high taxes or a sizeable mortgage The Foundation is unwilling to hold the property for a reasonable period and will be forced to cash out as quickly as possible, the prospective donor will be so informed.
 - f. **The Foundation** is required by law to notify the IRS of the resale price if the property is sold within two years.
2. Properties with mortgages will not be accepted.
3. Gifts of commercial properties and businesses will be evaluated not only on the basis of property tax and mortgage liabilities, but also taking into consideration that:
- a. The Foundation may have to pay income tax on unrelated business income (UBIT);
 - b. The Foundation, as a non-profit entity, receives no tax benefit from the depreciation;
 - c. The net result of the above evaluation may preclude The Foundation from accepting the gift despite paper value that says the gift is sizeable.

4. **No gift of real property will be accepted until The Foundation has satisfied any environmental impact issues!** Gifts of real property shall include minimally, a Phase I Environmental Impact Report. The expense of securing such a report will normally be borne by the donor.

Gifts of Personal Property

The law requires that gifts of personal property valued in excess of \$5,000 meet certain criteria:

- A. As required by IRS rulings (this applies only to gifts received within the United States), the donor must pay for an appraisal by an unrelated, qualified appraiser.
- B. The Foundation must acknowledge the appraisal in writing and the appraisal should be attached to the donor's tax return.
- C. The Foundation is required to notify the Internal Revenue Service of the sale price of any property gift sold within two years of the date of the gift.

The following is a checklist of practical considerations that should be taken into account when planning for soliciting or accepting gifts of real estate.

Title issues. With real property, appearances may be deceiving. A number of concerns may cloud what otherwise would be a simple transfer of title. These include such things as judgments and liens, including mechanics' liens, boundary disputes, pending litigation, unpaid mortgages, and unpaid taxes or assessments. Generally, it is not satisfactory to merely accept what the donor has to give. The quality of the title received by The Foundation will determine the quality of title that may be conveyed to a buyer. Title problems need to be identified and resolved early in the process.

Often, interests in real estate are held in common or jointly with others. It is important to identify exactly what rights and obligations the donor has to pass on to the charity. Further, if the property is located outside the donee's state, it is important to engage legal counsel in that jurisdiction to investigate the particular gift. It is even possible that The Foundation is barred from receiving the realty under the state's laws.

Use restrictions. While use restrictions are not unique to gifts of realty, the variety and breadth of these restrictions are much greater than those accompanying other gifts. Deed restrictions, prior covenants, and limitations on use and conveyance all impact the marketability and value of the property. Less familiar issues relating to real property gifts involve wetlands, zoning limitations, area or use variances, the configuration of the parcel, and access issues.

Physical structures and statutory limitations. Physical structures on the property also present special challenges. The number, size, and condition of these structures should be carefully reviewed before accepting the gift. Some statutory limitations to consider are the requirements of local fire prevention and building codes, rent control, and other rules applicable to current tenancies.

Insurance. Ownership generally carries with it liability. The charitable donee needs to assure itself that adequate coverage is in place not only for a casualty loss but also for liability to third parties.

Environmental issues. More and more, charities are becoming aware of the environmental concerns that accompany gifts of realty. It is important that development personnel be familiar with these issues and the institution's policies for dealing with these concerns. Access to expert assistance is especially important in the environmental sphere when cleanup costs may far outstrip the value of the parcel. Choosing the right environmental audit and insisting on the proper warranties and indemnification from the donor are necessary to protect the donee's interests.

Maintenance of property. The upkeep of real property is a good deal more involved and varied than that of other gifts. Maintenance, insurance, and taxes must all be taken into account as the costs of retaining the parcel, and it should be clear who is responsible for these continuing costs.

Transfer of property. Eventually, The Foundation may wish to transfer the property. Matters concerning transfer should be foremost in the minds of the Advisory Committee at the time of the gift. Saleability of the property, including its market value and the transfer costs involved (transfer taxes, gains tax, abstract and survey costs) are integral to the value of the gift to The Foundation. These issues are often addressed in an appraisal of the property, which, if its value exceeds \$5,000, is required.

The Foundation will not accept restrictions as to the ultimate sale of real property received as a gift. Where a final sale is not restricted, designating a purpose within The Foundation's mission for a fund created by the assets received from the sale of such property may be permissible with Board approval.

Gifts of real property might include gifts for which The Foundation is not in a position to ascertain the appraised value, even though those gifts might be below the IRS-mandated \$5,000. In particular, the areas that create this possibility are gifts of art, collections (such as stamp or coin), and mode of transport or computers. Recognizing that gifts could cover a wide range of possibilities, it is advisable that

the standard procedure for the acceptance of all gifts of appreciated assets, be they securities or real property, include an independent appraisal obtained by the donor before acceptance of the gift.

It should also be the practice that all gifts when offered are subject to final approval. No gift should be considered irrevocable from The Foundation's standpoint. Gifts should simply be accepted on a conditional basis, awaiting actual use and disposition. More specifically, the Foundation Advisory Committee may accept an offer to The Foundation of a gift of tangible personal property initially and **conditionally**. A receipt and acceptance of such tangible gifts with estimated values of \$1,000 or more shall be reported to the Board of Directors of **The Foundation** for confirmation and formal acceptance. An executed Deed of Gift must accompany such gifts.

Gifts to The Foundation of tangible personal property, such as paintings and other works of art or furniture or collections, **should not** be accepted if made on the condition or expectation that the items will be permanently exhibited or that the collections will be maintained and shown as such.

OTHER GUIDELINES

Expenses and Trust Fees

- a. Expenses connected with gifts should be payable from the gift and from The Foundation's operating capital. (Payments on life income agreements, which call for variable amounts depending upon income, will be calculated on net income after paying trustee's fees.)
- b. Commitment to accept gifts in the forms of trusts, which The Foundation is to administer or gifts that may require present or future commitments may not be made until approved by the Board of Directors.
- c. The Foundation makes no guarantee of the eligibility or valuation for tax deduction purposes of any plans offered, any gifts received or any contracts entered into. Donors should consult with their personal attorneys, tax consultant, or other counsel prior to making any gift or entering into any contract.
- d. Any types of gifts not listed for acceptance may be accepted only with the approval of the Board of Directors.

APPRECIATED BENEFITS SECURITIES

1. The charitable deduction is based upon the full fair market value, not upon the proceeds of the property's sale.
2. There is total avoidance of the long-term capital gains tax (currently taxed at the donor's marginal tax bracket).
3. The donor pays no brokerage fees or sales commissions.

Charitable Deduction of Appreciated Property

1. If the property is held short-term, the charitable deduction is the cost basis only. Currently, the short term is one year or less.
2. If the property is held long-term, the charitable deduction is the fair market value. Currently, the long term is more than one year.
3. If the property is inventory, i.e., property that the donor buys, sells or produces in the course of his business, the charitable deduction is the cost basis only. However, there are two exceptions: if the exempt purpose of the charity is the cure of the sick, needy and infants, the charitable deduction for the property is the cost basis plus one-half of the normal mark-up, not to exceed twice the cost of the property itself. The same is true if the exempt purpose of the charity is educational and scientific research - cost basis plus one-half of the normal mark-up, not to exceed twice the cost of the property itself.
4. If the property is regarded for tax purposes as "recaptured property," i.e., property which has been depreciated, then the charitable deduction is reduced by the amount subject to the recapture of ordinary income had the property been sold. Translated, this means that the donor can't take a double deduction, first for the depreciation and then for a charitable contribution. For example, if he has depreciated a \$10,000 piece of property down to \$7,500 and then gives it to charity when its fair market value is \$13,200, he can only take a charitable deduction for \$10,700 (FMV of \$13,200 less \$2,500, the amount of depreciation recapture that would have been recognized as ordinary income had the property been sold).

5. If the property is regarded as "tangible personal property," i.e., property that is owned for personal reasons and enjoyment, there are two factors to be considered:
 - Can the contributed property be used for the "related use" of The Foundation, either by the program or the administrative functions? If so, then the charitable deduction will be for the fair market value of the property, i.e., what a willing buyer would pay to a willing seller, neither being under any compulsion to buy or sell;
 - If the contributed property cannot be used for the charitable purposes of The Foundation but would simply be sold and the proceeds used for operating expenses, then the charitable deduction is limited to the cost basis only.
 - Caveat: Since we are not a qualified appraiser, do not attempt to put a price tag on the contributed property, which the donor may request and want to use for tax purposes. In the Thank You or acknowledgement letter to the donor, we will give only an accurate description of the property and if it will be put to a related use.

6. The Foundation is regarded for tax purposes as a "50% type charity," i.e., a donor can take a charitable deduction for cash contribution in any calendar year up to 50% of his adjusted gross income (AGI). Any unused charitable deduction can be carried over up to five additional years. However, if the contributed property has long-term capital gains, then the charitable deduction is limited to 30% of his AGI with the unused charitable deduction carried over up to five years.

The Benefits of Using Appreciated Securities to Fund Charitable Remainder Gifts

1. The charitable deduction is based upon the value of the charity's right to receive the remainder interest at some future date, adjusted both by the rate of return and the number of income beneficiaries.
2. There is total (partial, in the case of the gift annuity) avoidance of the long-term capital gains tax when the appreciated securities are sold. In the gift annuity only a portion of the long-term capital gains tax is avoided and the rest is prorated over the anticipated duration of the annuity contract.
3. There are no brokerage fees charged to the donor directly, since these are paid by the trustee or, in the case of the gift annuity, by the charity.
4. There can be change of investment strategy with no reduction of principal.

SUBSTANTIATION REQUIREMENTS FOR CHARITABLE GIFTS

While the legal requirement for substantiating the value of the contribution is primarily the responsibility of the donor, it shall be the policy of the **Darien Lions Club Foundation** to provide if feasible the donor and his agents with whatever assistance and guidance they may need to fulfill these IRS requirements.

A. Cash Contributions

The Foundation shall acknowledge on official stationery receipt of all cash contributions in a timely fashion, indicating the name of the donor, the date of the contribution and the amount of the contribution.

B. Property Contributions (other than publicly traded securities)

The Foundation shall acknowledge on official stationery receipt of all contributions of real or personal property, indicating:

1. The name of the donor;
2. The date and location of the contribution;
3. A description of the property in detail reasonably sufficient under the circumstances. In the case of securities, the name of the issuer, the type of security and whether the security is regularly traded on a stock exchange or on an over-the-counter market.
4. The terms of any agreement or understanding entered into with the donor, which relates to the use, sale or other disposition of the contributed party.

C. Contributions in Excess of \$500

If the claimed value of all property contributions exceeds \$500 (regardless of their individual values), the donor must complete IRS Form 8283, "Non-cash Charitable Contributions," and attach it to his tax return.

D. Qualified Appraisal Requirements

When a donor makes a contribution of property (other than cash or publicly traded securities) with a value in excess of \$5,000, certain additional requirements must be met by the donor:

1. The donor shall obtain a **qualified appraisal** for the property contributed.

2. An **appraisal summary** shall be completed and attached to the tax return on which the deduction is first claimed.
3. Records for **property contributions** shall be maintained.

The Foundation Advisory Committee may assist the donor in hiring an appraiser who is qualified to submit an appraisal acceptable to the Internal Revenue Service. The Foundation Advisory Committee may mail to the appraiser, selected by the donor, the information on Qualified Appraisal and the IRS Form 8283, which is to be completed by the appraiser and returned to The Foundation Advisory Committee along with a copy of the appraisal.

An **appraisal summary** is the summary of the qualified appraisal which is:

1. Made on the IRS Form 8283;
2. Signed and dated by the appropriate representative of The Foundation;
3. Signed and dated by the appraiser who prepared the qualified appraisal;
4. Inclusive of the information required by the Internal Revenue Service.

Should the **Darien Lions Club Foundation** choose to obtain a second appraisal (for example, to substantiate the gift value of a Charitable Gift Annuity), the fee for the second appraisal shall be the obligation of The Foundation alone and not the donor.

The information to be included in a qualified appraisal is the same as that which would be contained in an ordinary appraisal, with certain exceptions. The following is a checklist of requirements to substantiate the gift value of a charitable contribution.

1. The date of the appraisal is **not more than 60 days** prior to the date of contribution.
2. It is prepared, signed and dated by a qualified appraiser.
3. The property is described in sufficient detail so that a person not familiar with the donated property would conclude that the appraised property and donated property are one and the same property.
4. In the case of tangible personal property, a description of the property's physical condition is provided.
5. The date (or expected date) of the contribution to the **Darien Lions Club Foundation** is noted.

6. The terms of any agreement or understanding entered into (or expected to be entered into) by or on behalf of the donor are listed, which relates to The Foundation's use, role or other disposition of the property, including any agreement that:
 - a. Restricts temporarily or permanently The Foundation's right to use or dispose of the donated property;
 - b. Reserves to or confers upon any individual any right to the income from the donated property, the possession of the donated property, the right to buy the property, in the case of stock the right to vote the stock, or earmarks the property for a particular use;
7. The name, address and taxpayer identification number (TIN) of the qualified appraiser and also the name, address and TIN of any individual, partnership or corporation, if any, that employs or engages the qualified appraiser;
8. The qualifications of the qualified appraiser who signs the appraisal, including the appraiser's background, experience, education and membership in any professional appraisal associations;
9. A statement that the appraisal was prepared for income tax purposes;
10. The date or dates on which the property was valued;
11. The appraised fair market value of the property on the date or expected date of the contribution;
12. The method of valuation used to determine the property's fair market value;
13. The specific basis for the valuation, if any, such any specific comparable sale;
14. A description of the fee arrangement between the donor and the appraiser.

Charitable Contributions of Property Other Than Money Made in Taxable Years
Beginning after December 31, 1982

Any taxpayer who makes a charitable contribution of property other than money in a taxable year beginning after December 31, 1982, shall maintain for each contribution a receipt from the donee showing the following information:

1. The name of the donee.
2. The date and location of the contribution.
3. A description of the property in detail reasonably sufficient under the circumstances.

Content of Records

1. The name and address of the donee organization to which the contribution was made.
2. The date and location of the contribution.
3. A description of the property in detail reasonable under the circumstances (including the value of the property), and, in the case of securities, the name of the issuer, the type of security, and whether or not such security is regularly traded on a stock exchange or in an over-the-counter market.
4. The fair market value of the property at the time the contribution was made, the method utilized in determining the fair market value, and, if the valuation was determined by appraisal, a copy of the signed report of the appraiser.
5. In the case of property to which section 170(e) applies, the cost or other basis, adjusted as provided by section 1016, the reduction by reason of section 170(e)(1) in the amount of the charitable contribution otherwise taken into account, and the manner in which such reduction was determined.

APPRAISAL SUMMARY
(IRS Form 8283)

An appraisal summary must include the following information:

1. The name and taxpayer identification (social security, if an individual) number of the donor;
2. A description of the property in sufficient detail to clearly identify the donated property as the appraised property;
3. A brief summary of the overall physical condition of the property at the time of the contribution (personal property);
4. The manner by which the donor acquired the property e.g., purchase, exchange, gift or bequest and the date on which the property was acquired. If the property was created, produced or manufactured by or for the donor, a statement to that effect shall be included as well as the approximate date on which the property was substantially completed;
5. The cost or other basis of the property;
6. The name, address and taxpayer identification of the charity;
7. The date on which the charity received irrevocably all rights to the property;
8. The appraised fair market value of the property on the date of the contribution;
9. The declaration by the appraiser stating that the fee charged for the appraisal is not a type prohibited and that the prepared appraisal is not being disregarded for tax purposes.
10. Any such other information as may be specified by IRS Form 8283 or its instructions.

GLOSSARY

Charitable Remainder Trust

A charitable remainder trust provides a source of income to one or more beneficiaries for life (or a period of years) and then distributes all the trust assets to a designated charity. For this deferred gift charity, a U.S. donor is permitted immediate income tax deduction. There are two kinds of "qualified" charitable remainder trusts: the charitable remainder annuity trust and the charitable remainder unitrust.

Charitable Remainder Annuity Trust

A charitable remainder annuity trust makes a fixed yearly payout to a beneficiary for life (or for a certain number of years). When the income rights to the trust end, the assets are distributed to a designated charitable remainderman. The payout amount, stipulated in the trust instrument, is equal to a stated percentage (at least 5 percent per year) of the initial value of the assets transferred to the trust. The amount of the payout thereafter remains the same regardless of the investment experience of the trust. Additional contributions to the trust are prohibited.

Charitable Remainder Unitrust

The charitable remainder unitrust provides an annual payout to a beneficiary that varies from year to year. Like an annuity trust, when the income rights to a unitrust end, its assets are distributed to a designated charitable remainderman. The payout amount, as stipulated in the trust instrument, is equal to a stated percentage (at least 5 percent per year) of the trust assets as valued annually. The amount of the payout, therefore, depends on the trust's assets -- the greater the value, the higher the payout and vice versa. Additional contributions to a unitrust are permitted.

Charitable Lead Trusts

Income is paid to a charity for a period of years, and then the trust assets are returned to the donor or distributed to the donor's designated beneficiaries. There are a number of different lead trust arrangements, each having different tax results for the donor.

Planned Gift

Any gift given for any amount, given for any purpose -- operations, capital expansion, or endowment -- whether for current or deferred use, which requires the assistance of a professional staff person, a qualified volunteer, or the donor's advisors to complete. In addition, it includes any gift, which is carefully considered by a donor in light of estate and financial plans.

Gift Planning

The process of making and encouraging the planned gift.

Tangible Personal Property

Tangible property is property that is touchable. Personal property or personality is property other than land or improvements to land (such as buildings and other permanent structures). Personality can include fixtures (for example, a chandelier) if it is intended to be severed from its real property. Automobiles, boats, clothing, personal papers, antiques, china, stamp collections, rare coins, works of art, books, jewelry, gemstones, and most home furnishings and appliances are tangible personal property.

Intangible Personal Property

The pieces of paper embodying cash, stock, certificates, bonds, checks, notes, and other negotiable instruments may be tangible personal property under local law. However, for federal tax purposes, contributing these items is deemed to be contributing intangible rights to property rather than the tangible paper evidencing the rights.

Currency

Although ordinary cash currency is technically tangible personal property, it is regarded as intangible personal property for purposes of the charitable deduction rules. On the other hand, money of a bullion or numismatic nature has been ruled in other tax contexts to be tangible personal property and will be treated as such for the charitable tax rules.

Section 306 Stock

Section 306 stock is preferred stock which has been issued as a stock dividend on common stock. Under Section 306 of the Internal Revenue Code (hence the name, "Section 306 stock"), any gain on the sale of such stock is taxable as ordinary income. Consequently, under the ordinary income reduction rule, a deduction for a gift of "Section 306 stock" is limited to the cost basis. You won't run into Section 306 stock often, but whenever a donor suggests giving you preferred stock, check it out.

Corporate Percentage Limitation

If the donor is a corporation, the income tax charitable deduction is limited to 10 percent of the corporation's taxable income, with up to a five-year carry-over available for excess deductions.

Ordinary Income Property

Ordinary income property is yet another category of property which must be looked at separately. It is property which would produce ordinary income (as opposed to capital gain income) if sold by the donor.

For gifts of such property, the donor must reduce the value claimed as an income tax deduction by the amount of ordinary income which would have been generated by a sale of the property in the donor's hands. Often, the net effect is that the donor's deduction is limited to the cost basis.

Inventory

In general, inventory is all property held for sale in the donor's trade or business. If a donor contributes inventory to your organization, he can claim an income tax deduction for the fair market value reduced by the amount of ordinary income he would have recognized if he sold the property. Practically, this means that the deduction is limited to the cost basis.

Gross Estate

The federal estate tax is imposed on the aggregate value of U.S. residents' or citizens' assets, as they exist at death, plus the dollar value of their lifetime gifts made since 1976 that were taxable for federal gift tax purposes. The decedent's assets to be valued and taxed include:

- ❑ Property in which the decedent had a direct interest disposable at death;
- ❑ Property in trust that the decedent could have withdrawn in his own favor over which he had a general power to appoint as he wished;
- ❑ Property that vests in other than a spouse by joint and survivor ownership arrangement to the extent that the decedent contributed to its acquisition;
- ❑ One-half of property that vests in a spouse by a joint and survivor ownership arrangement;
- ❑ Property in which the decedent had a life interest qualified for marital deduction in his predeceased spouse's estate;
- ❑ Property that comes into being in favor of, or passes to, another person under a plan bought or contributed to by the decedent (such as a pension or other annuity);

- ❑ Insurance proceeds on the decedent's life unless he had no ownership rights in the policy;
- ❑ Property transferred by the decedent during his lifetime but over which he retained certain controls or enjoyment (such as the right to revoke the transfer, right to its income or use, power to change beneficiaries or change the manner of their enjoyment of the transfer, or retention of a significant possibility that the transferred property might be returned to him);
- ❑ Any interest in property transferred within three years before the decedent's death if retaining the interest would have caused inclusion under the controls or enjoyment rule, or as insurance; and
- ❑ The gift tax paid on any transfer made within three years before death.

The sum of these values is the decedent's "gross estate."

Deductions

From the decedent's gross estate there are allowed deductions for

- ❑ Funeral and administration expenses, debts, and losses during administration;
- ❑ Unlimited marital deduction for property passing to a surviving spouse;
- ❑ Unlimited deduction for qualified charitable transfers; and
- ❑ 50 percent of the gross proceeds of the sale of qualified securities from the estate to the issuer's ESOP (employee stock ownership plan) or worker-owned cooperative.

The gross estate less these deductions is the "taxable estate."

Codicil to a Will
Addendum to an Existing Will

I, (name) of (city), (state & country) make this codicil to my will dated _____.

I, hereby, amend my will to include the following:

I hereby give to the **Darien Lions Club Foundation**, a charitable organization located in Darien, Illinois, USA, in the event that (primary beneficiaries) should not survive me, or should die during the administration of my estate within ninety (90) days from the day of my death as a result of a common disaster, I give (specific or residual amounts).

Except as modified by this codicil, I republish my will dated _____.

I have signed this codicil to my will dated _____ consisting of ___ pages, this page included on _____.

Codicil to a Will
Replacement of an Existing Segment of a Will

I, (name) of (city), (state & country) make this codicil to my will dated _____.

I, hereby, revoke paragraph _____ of Article _____ of my will in lieu, therefore, I substitute the following:

I hereby give to the **Darien Lions Club Foundation**, a charitable organization located in Darien, Illinois, USA, in the event that (primary beneficiaries) should not survive me, or should die during the administration of my estate within ninety (90) days from the day of my death as a result of a common disaster, I give (specific or residual amounts).

Except as modified by this codicil, I republish my will dated _____.

I have signed this codicil to my will dated _____ consisting of ___ pages, this page included on _____.

Sample Clauses for a Newly Established Will

I give, devise and bequeath to the **Darien Lions Club Foundation**, a charitable organization registered in the State of Illinois, with a principal mailing address of *1702 Plainfield Road, Darien, IL 60561*.

Specific - the (description or sum of bequest) to be used for the charitable purpose of The Foundation.

Residuary - all or a portion (list percentage) of the rest, residue and remainder of my estate, to be used for the humanitarian services offered through the programs of the **Darien Lions Club Foundation**.

Contingent - In the event that (primary beneficiaries) should not survive me, or should die during the administration of my estate within ninety (90) days from the date of my death as a result of a common disaster, I give, devise and bequeath... (specific or residuary) to

Darien Lions Club Foundation
Darien, Illinois