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**SUBJECT: GIFT TYPES, TERMS AND DEFINITIONS**

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**1.0 AUCTIONS**

- 1.1. Only the difference between the fair market value of the item and the purchase price may be counted as a tax-deductible gift by the purchaser. For example, a piece of artwork valued at \$100.00 is purchased for \$250.00. The amount considered a gift would be \$150.00.
- 1.2. In order to establish charitable intent, the donor must be able to show that he or she knew the value of the item being auctioned before the bidding begins. This can be achieved by publishing a catalog of items offered at the auction, or posting the fair market value next to the item before bidding starts.
- 1.3. If the auction item has been donated, the item should be reported as a non-cash gift. The donor must establish a value for the donated item (see In-Kind Gifts).
- 1.4. Each purchaser of an auction item must fill out a receipt for auction purchase form. These receipts should be attached to a *Gifts Transmittal form* and forwarded to the Advancement Office.

**2.0 BEQUESTS OR DEFERRED GIFTS**

- 2.1. Bequests are gifts made through a donor's will, living trust, or estate plan. Deferred gifts are gifts conveyed to the Snow College at some later date or in such a way that the donor receives lifetime income such as charitable gift annuities, charitable trusts, etc. Bequests and deferred gifts must be reported to the Snow College Foundation as soon as notice of such a gift or the intent of such a gift is received, to ensure all applicable statutes, policies and regulations are followed and appropriate recognition is provided.

**3.0 CONFERENCE SUPPORT GIFTS**

- 3.1. Generally, conferences and symposia are budgeted projects which would typically have all expenses related to the event covered by the College or one of its units. The College welcomes contributions from private sources to support such events with the following stipulations:
  - (a) As with all gifts, the donor must have a charitable intent when donating to underwrite the activity. The Advancement Office must be contacted if it appears that the donor is 'purchasing' the services of the College or is receiving benefits not commensurate with a charitable contribution.
  - (b) If the donor (or in the case of organizations, the representative of the donor) is planning on attending the event, any applicable registration fees must be paid separately, in addition to the gift, or the amount of the gift must be reduced by the fair value of admission or other benefit received (see Quid Pro Quo Gifts).
  - (c) It is the responsibility of the department sponsoring the event to ensure that the distinction is clearly explained to the donor.

#### 4.0 DETERMINING THE DONOR

- 4.1. Under the vast majority of cases, the person or organizations whose name appears on the face of the check shall be considered the legal donor of a gift. For gifts of securities and real property, the person or organization in whose name that property was registered is considered the donor. Exceptions are cashier's checks and money orders, which are provided by banks to their customers as a convenience. In this case, the person or organization on whose behalf the cashier's check or money order is drawn is considered the donor (see Honoraria as Gifts). If you are uncertain about whom the proper donor is, please contact the Advancement Office for assistance.
- 4.2. Common examples of when it may be difficult to determine the donor are listed below:
  - (a) A donor maintains a fund (normally a donor advised fund) with a community foundation (e.g., Community Foundation for Southern Utah) or a charitable gift fund (e.g., Fidelity Charitable Gift Fund) directs the foundation or fund to issue a check to the Snow College Foundation. The community foundation or charitable gift fund, not the individual, is the legal donor, although the individual may receive 'soft credit' for the gift. (See Soft Credit Donations). Please note: As per IRS regulations, funds distributed from a third-party charitable organization may not be used to satisfy a personal legally enforceable pledge obligation.
  - (b) Several people pool their money, giving that money to a person who writes a check as a charitable contribution. In this case, the legal donor is the person who wrote the check, not the people who provided the money.
  - (c) Someone gives money to an organization that collects money for dispersal to other charities, designating that the funds be given to the College. The legal donor is the organization, not the individual, although 'soft credit' would be given.
  - (d) A legally enforceable pledge is made under an individual's name, but the pledge payment is paid with a third party check. The tax receipt will be issued in the name of the third party, not the individual. Please note: This payment from the third party may not legally be applied against the personal pledge obligation, unless the third party is specifically a party to the original and accepted pledge.
  - (e) Priority seating rights for athletic events are held by Mr. D., who allows his friend Mr. Y to pay attendance fees and contributions associated with priority seating charges. The tax receipt for the contribution portion will be sent to Mr. Y, who actually issued the check.

## 5.0 ENDOWMENTS

5.1. An endowment is a fund where the principal (corpus) is held for investment and the payout declared on the principal is made available for spending as directed by the donor. There is only one authorized repository for endowment gifts: The Snow College Foundation. Endowment gifts are subject to the provisions of the Advancement Office Policies and Endowment and Investment Policies. Please refer to the *Endowment Agreement form* for more information.

## 6.0 FAIR MARKET VALUE

6.1. This is the value attached to any benefit given to a donor in exchange for his or her contribution and is defined as what a reasonable person would expect to pay for the item in an open market. Any item representing more than a token fair market value, as defined by IRS policies, must be deducted from the total donor contribution to determine the tax-deductible amount of the gift. An example would be a dinner for which attendance is priced at \$50. If the value of the dinner were \$15, the donor's tax-deductible portion of the \$50.00 attendance charge would be reduced by \$15.00. Please note there is a distinct difference between the cost of an item and the fair market value (see Quid Pro Quo Gifts).

## 7.0 GIFTS MADE BY COLLEGE EMPLOYEES

7.1. While Snow College appreciates charitable financial support of its faculty members and staff, care must be taken to ensure that such support follows all restrictions and requirements of the College, the Board of Regents, the State of Utah and the Internal Revenue Service. Internal Revenue Code section 170 allows a donor to receive a tax deduction for charitable contributions (gifts) made during the year to qualified organizations such as the Snow College Foundation. Deductibility is ascertained by donor intent. Generally, contributions made by College employees to the Foundation are tax deductible if they are made with a "detached and disinterested" generosity. A faculty or staff member who wishes to contribute a gift in support of their department must submit an Employee Donor Agreement Form. A faculty or staff member who wishes to contribute to a gift account from which they may benefit must submit a letter stating the following:

- (a) The gift account is for general purposes of the unit and is not specifically related to the donor's research or other work.
- (b) The funds from the gift account are dispensed impartially and the donor is not the signer on the account, and
- (c) The sum of the gifts from the donor, his or her immediate family and/or other related entities do not constitute the majority of the funds in the account.

(d) This letter must be signed and dated by the faculty or staff donor, approved in writing by the responsible Dean or Department Head, attached to the gift receipt and forwarded to the Advancement Office. The Advancement Office will forward the letter to the Controller's Office.

## 8.0 HONORARIA AS GIFTS

8.1. Honoraria are defined under IRS policy as payments for services rendered by the speaker and/or consultant and are reportable as income to that speaker or consultant for personal income tax purposes. Whereas in many cases the organization paying the honorarium makes the check payable to Snow College or one of its units, the honorarium still represents a payment for services rendered and is considered income to the speaker/consultant. If possible, the organization paying the honorarium should make the check payable to the individual. The individual will not receive a gift receipt for a directed honorarium. Faculty or staff members who receive honoraria are welcome to donate these payments to the College, and he or she will benefit from the charitable deduction as a result, however to remain in compliance with IRS code, the check must be from the faculty or staff member and not the organization issuing the honoraria

## 9.0 INTERNSHIPS

9.1. Internships are established from funds given to Snow College academic departments by agencies, corporations or businesses to support student interns. When a donor and Snow College have agreed, the College will administer internship funds.

## 10.0 MEMORIAL GIFTS

10.1. Memorial gifts are made in memory of a deceased person. The donation can be designated to a variety of purposes, including, but not limited to, scholarships, research, and academic support. A memorial gift may also be unrestricted in nature. Memorial gifts cannot be used to establish a named endowment unless the sum total of gifts received reaches or exceeds \$10,000. Note: The Advancement Office will receipt these gifts, but the benefiting unit should acknowledge them because of the sensitive nature of these gifts. If a notificant is specified with the gift, the Advancement Office will periodically send an acknowledgement including the names of donors (but not amounts) who have made gifts in memory of the deceased.

## 11.0 IN-KIND GIFTS

11.1. Gifts in-kind (GIK) are non-cash donations of materials or long-lived assets, such as stocks and securities; real estate; and other items requiring more than nominal effort to be converted into cash. Per IRS regulations, any item

the donor values over \$500 requires the donor to complete and sign IRS Form 8283; any item the donor values over \$5,000 requires that Form 8283 be completed and signed by the donor and the charity and that a written appraisal be provided by the donor. It is the responsibility of the College representative accepting the gift to consult with Advancement staff prior to acceptance. It is important that the representative, department, program, or office consider the value of the gift to the College. For ease of processing, the Snow College Foundation has created a comprehensive Gift in-Kind form that can be filled out by any department. There are two kinds of these non-cash gifts:

- (a) Related Use: These are in-kind gifts that are to be used as-is by the receiving department or unit. Related use gifts should be processed through the Advancement Office.
- (b) Unrelated Use: These are in-kind gifts that are given with the intention that the College will convert these items into cash, usually by selling the item. Unrelated use gifts should also be processed through the Advancement

## 11.2. **Acceptance of Gifts in-Kind**

### 11.2.1. **Gifts Retained for the College's Operational Use**

The Snow College Foundation accepts gifts in-kind (non-cash gifts) that will be retained for the College's operational use, such as equipment and furniture. These items can be donated directly to the department if the intent is to retain the property for a period of three years or more. In these cases, a gift in-kind can only be accepted with approval of the Foundation executive director and appropriate vice president of the department. Once the appropriate approvals have been received, the department receiving the gift is required to send the completed Gift in-Kind Form to the Advancement Office. The department is also responsible for coordinating with the Controller's Office to ensure the gift in-kind property is appropriately inventoried, if applicable. Gift and administrative fees are not imposed on gifts in-kind accepted by the College.

### 11.2.2. **Gifts to be Sold or Retained for Less than Three Years**

For donated property that is to be retained for less than three years or to be sold upon acceptance, the donation should be made directly to the Foundation. When the donation involves a sellable asset, the Executive Director determines whether the Foundation Board needs to make an acceptance decision. Unless other arrangements have been made, tangible personal property donated to the Foundation will be liquidated as soon as possible and proceeds used to benefit the College. If costs are incurred, administrative fees may be imposed on gifts in-kind donated through the Foundation when the property is liquidated. The Gift in-Kind form will be used by the Foundation to prepare Form 8283 and send a gift acknowledgement to the donor.

### 11.3. Gift Valuation

With the exception of stocks and securities, and in accordance with IRS regulations, the donor is responsible for determining the value of in-kind gifts. Donors should establish the fair market value of the gift with a recognized independent appraiser. A “qualified appraisal” is required by the IRS to substantiate a donor’s charitable deduction for in-kind gifts with a value of \$5,000 or more. College personnel are not qualified appraisers, and federal regulations do not permit the College to give appraisals or estimates of value (see Gifts Other Than Monies).

#### 11.3.1. Fair Market Value (FMV) for In-Kind Gifts

Refers to the value placed on the gift for donor stewardship and property control purposes. GIK are recorded at FMV. The methodology used for determining fair value should be documented. Fair market value may be determined by:

- A written appraisal by an independent, qualified appraiser, or
- Documentation obtained from a qualified outside source such as ‘blue book’ or a knowledgeable dealer, or
- Identifying what it would cost the College if it were to purchase the gift outright from a vendor or an original bill of sale for new equipment.

Documentation that supports the gift’s value should be submitted at the time the gift is to be booked by the receiving department or program. In certain cases, College departments may pay for appraisals if they deem it necessary and appropriate for proper insurance and inventory, but NOT to substantiate the value for the donor. Please note that neither the College nor the Foundation should ever pay for an appraisal for a donor. Both entities will never certify the value of the gift to the donor.

### 11.4. Use of Legal Counsel

The Snow College Foundation will seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- Gifts of securities that are subject to restrictions or buy-sell agreements.
- Documents naming Snow College as trustee or requiring the College or Foundation to act in any fiduciary capacity.
- Gifts requiring the College or Foundation to assume financial or other obligations.
- Transactions with potential conflicts of interest.

- Gifts of property which may be subject to environmental or other regulatory restrictions.

#### 11.5. **Restrictions on Gifts**

The College and the Foundation reserve the right to decline a gift for any reason in their sole discretion. Examples of when a gift will be declined include gifts that (a) would result in the Snow College Foundation violating its corporate charter, (b) would result in the Foundation losing its status as an IRS 501(c)(3) not-for-profit organization, (c) are too difficult or too expensive to administer in relation to their value, (d) would result in any unacceptable consequences for the College or Foundation, or (e) are for purposes outside the College or Foundation's mission.

Decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Foundation Board, in consultation with the Executive Director, and legal counsel when appropriate.

#### 12.0 OFFICIAL RECEIPT DATE

12.1. The official receipt date will normally reflect the date of processing. Establishing the official date of the gift is the responsibility of the donor per IRS regulations; however, we can assist donors by being aware of the following in seasonal periods where the date of gift is critical (end of calendar year, for example).

- (a) If the check has been mailed through the US Postal Service, the postmark on the envelope can be used to establish date of gift.
- (b) If the gift has been sent via FedEx, etc. the date of gift is the date it was accepted by a College representative.
- (c) If gift is made by a credit card, the date of gift is the date the charge was actually accepted by the credit card company.

#### 13.0 GIFT PLEDGE AND GIFT COMMITMENTS

13.1. A donor's promise to give money or other property at some specific time in the future may take two forms, a legally binding pledge or a gift commitment. These approved forms must be used to record a gift promise to the College. (See Pledge and Commitment forms)

- (a) Gift Pledge: A legally binding agreement in the form of a contract, where both parties have agreed to specific described actions. Only those parties who have signed the pledge agreement may fulfill the

terms of the pledge. A gift pledge payment from any other source (including a donor advised fund, family foundation, etc.) should not be used to make payments on a gift pledge as it could result in an adverse tax or financial result to the donor.

(b) Gift Commitment: A completed gift commitment form records a donor's intention to make a defined gift over a period of time for a specified purpose. It is not a legally binding agreement, but serves to document a commitment to make a gift. This form gives the donor the greatest flexibility in fulfilling their commitment as there are no legal constraints on how a gift commitment may be satisfied.

13.2. Under certain circumstances a Gift Pledge is required. Examples are expenditures that will require borrowing of funds commercially to meet College objectives, or capital construction projects where facility naming rights will be used as part of the acknowledgment process or other circumstances where the College is relying on the pledge.

#### 14.0 QUID PRO QUO GIFTS

14.1. A quid pro quo donation is one in which the donor's payment is made partly as a contribution, partly in payment of goods received. An example would be a contribution of \$50 required to attend a dinner, \$15 of which covers the value of the dinner (see Fair Market Value).

#### 15.0 RAFFLES

15.1. The price of entering a raffle is a purchase and is not considered a gift. All raffle tickets must state clearly on the ticket that this purchase is not a tax-deductible donation. Raffles must conform to specific rules, so it is important that a department contact the Advancement Office prior to holding a raffle.

#### 16.0 RESPONSIBILITIES FOR GIFT MONIES

16.1. Acceptance of any gift signifies the College/Foundation's willingness to administer gift funds in compliance with donor directions. Responsibility of initial acceptance lies with the Advancement Office. Responsibility of further monitoring of gift funds for compliance lies with the department or division head.

#### 17.0 RESTRICTED GIFTS



17.1. Restricted gifts are received with the stipulation that the contribution be used for a specific purpose such as faculty recruitment, equipment purchases, student financial assistance or research other than for contract research purposes. Gifts may also be restricted to support the research performed by a specific individual. While the funds may be unrestricted to Dr. X, from the College's point of view these funds are restricted since they may only be used to support the research performed Dr. X. This type of gift is still a gift to the College and is not the property of the individual.

## 18.0 SCHOLARSHIP GIFTS

18.1. Scholarship gifts support the education of students. Scholarships are awarded through the Office of Student Financial Aid according to criteria approved by the OSFA and the donor(s). Some scholarships are endowed; others are supported by annual donations. Payments from individuals or organizations for scholarships to specific students are not gifts or tax-deductible according to IRS regulations.

## 19.0 SOFT CREDIT DONATIONS

19.1. Soft credit allows the College to acknowledge the efforts of persons other than the legal donor, who were instrumental in providing the gift, while not compromising the College's legal obligation to record and receipt the gift correctly. While these important people should be thanked, care must be taken to ensure the acknowledgment clearly states the legal donor (See Determining the Donor).

## 20.0 STUDENT LOAN FUNDS

20.1. Student loan funds are donor-established funds that are loaned to students and administered by the College. The funds are repaid to the College, or designated third party, by the students who accepted the loan. The Office of Student Financial Aid makes loan awards, as with scholarships. Since loan funds require collection efforts by Snow College, the acceptance of such funds, including terms and conditions, require the approval of the Vice President for Finance or his/her designee.

## 21.0 TRANSFERS OF GIFT FUNDS

21.1. The Snow College Foundation will not normally initiate a transfer of gift funds to another institution. The Snow College Foundation considers all gifts to be irrevocable. The Snow College Foundation accepts gifts for specific

areas or departments, or to support specific projects under the direction of specific individuals, but does not accept gifts given to individuals.