GEORGIA STATE UNIVERSITY FOUNDATION, INC.

Policy number/name: 2.2 Gift Acceptance Policy Title II, Outright Gifts

Issuing date: 6/4/2008 **Effective date:** 6/4/2008

Policy approved by: Board of Trustees

Governance oversight by: Development Committee

I. Revision history

Adopted 12/2/2004
Triennial Review and Amendment completed 6/4/ 2008

II. Purpose of the policy/Policy statement

From Gift Acceptance Policy Title I, Principles and Definitions:

The board of trustees of the foundation finds that the orderly and expeditious handling of gifts requires policy guidance from the board to protect the interests of donors, the university and the foundation. This policy provides for the acceptance, valuation and disposition of gifts to the foundation. It was developed as a resource for developing campaign reporting guidelines and foundation procedures.

> Interpretive Note. The charter of the foundation was granted on January 13, 1958 and amended in 1969 and 1994. Several charter items specifically address gift acceptance and disposition. (DWB, 6/29/07)

II. Definitions

See 2.1 Gift Acceptance Policy Title I, Principles and Definitions

III. Applicability

The policy applies to all gift and pledges to the foundation.

IV. Exceptions

The policy generally does apply to gifts directly to the university or gifts to other cooperative organizations. The "exception to the exception" are tangible gifts of personal property (gifts-in-kind) to the university.

V. Detailed policy statement

I. *Routine Outright Gifts*

A. Scope

These include cash in all its forms (e.g., currency, checks, bank drafts, money orders, electronic fund and wire transfers, ACH debits, credit and debit cards), publicly traded securities (except restricted stock) and shares of mutual funds (regulated investment companies).

B. Acceptance

These gifts are a routine part of the business of the foundation. In most cases, the board of trustees makes no special policy provision for these gifts other than to require high standards of stewardship. Gifts of securities will not be accepted if they fall into one of the following categories:

- assessable or could create a liability for the foundation;
- can not be immediately or quickly liquidated (unless approved by the president of the foundation);
- not assignable; or
- which, on investigation, have no apparent value.

Gifts made by payroll deduction must be authorized by documentation signed by the donor(s).

C. Valuation

Routine outright gifts present few valuation challenges. Gifts denominated in foreign currency must be valued in U. S. currency.

In some cases, extra care must be taken to establish accurately the date of the gift. Fees associated with these gifts (e.g., credit card fees, brokerage commissions) are business expenses of the foundation and do not reduce gift valuations.

> Interpretive Note. Both *NCPG Guidelines* and *CASE Standards* follow IRS methodology for valuing publicly traded securities, i.e. at the mean of the high and low prices on the date of the gift. For some securities, the value is the mean of the bid and the ask. Mutual fund shares are valued at Net Asset Value (NAV) on the date of the gift. (DWB, 6/21/07)

> Interpretive Note. Direct electronic transfers of mutual fund shares are routinely accepted gifts. Where the gift would require the foundation to open an account with the mutual fund company, the value of the gift must be weighed against the administrative burden when an acceptance decision is being made. (DWB, 7/11/06)

D. Disposition

It is the policy of the foundation that cash should be deposited to foundation depositories as soon as possible. If the number of shares of a gifted security is sufficient to be deemed by the foundation's broker to have a potentially depressive impact on the price of the stock, the sale may be extended over a period of time necessary to avoid such an impact. Neither losses nor gains realized on the sale of the stock by the foundation will affect the valuation of a gift of securities or mutual fund shares. Gains and losses will be applied to the account for the gift designation or purpose.

> Interpretive Note. Consistent with the general policy, securities should be sold and mutual fund shares redeemed immediately upon receipt. (DWB, 12/2/04)

E. Donor Responsibilities.

Some gifts, such as stock and wire transfers, are received with insufficient information to identify the donor or the gift's purpose. Foundation staff is expected to make reasonable efforts to identify the donor and gift purpose. Ultimately, however, it is the donor's responsibility to provide notice and documentation of such gifts and to instruct the donor's broker or fiscal agent to provide information about the gift to the foundation staff.

Interpretive Note. Taxpayers claiming charitable contribution deductions for cash, check, or other monetary gifts made in taxable years beginning after August 17, 2006, are subject to the new recordkeeping requirements mandated by the Pension Protection Act of 2006 (PPA). To substantiate a deduction, PPA requires a taxpayer to maintain a bank record or a written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution. For a charitable contribution made by payroll deduction, a pay stub, Form W-2, or other employer furnished document that sets forth the amount withheld for payment to a donee organization, along with a pledge card prepared by or at the direction of the donee organization, will be deemed to be a "written communication from the donee organization" that satisfies the requirements of PPA. IRS Notice 2006-110. (DWB, 10/31/07)

F. Disclosure.

To the extent that they are aware of stock gifts and wire transfers, development officers are responsible during gift closure for providing information to the donor about responsibilities defined in **5. Donor Responsibilities** above.

II. *Outright Gifts Requiring Due Diligence*

A. Quid Pro Quo *Contributions*

Donors who patronize special events such as galas and auctions make *quid pro quo* contributions. Members of recognition societies and donor clubs may also find their gifts subject to *quid pro quo* provisions of U. S. tax law if good and services received as membership benefits exceed *de minimis* levels though this can be avoided with proper planning.

U. S. tax law defines a *quid pro quo* gift as "a payment made partly as a contribution and partly in consideration for goods and services provided to the payor by the donee organization." For gift reporting purposes, the gift value of *quid pro quo* contributions is equal to the total contribution less the consideration for goods and services.

Interpretive Note. "An organization must provide a written disclosure statement to a donor who makes a payment exceeding $75 partly as a contribution and partly for goods and services provided by the organization." Source: *Charitable*

Contributions: Substantiation and Disclosure Requirements, IRS Publication 1771. See also *Charitable Contributions*, IRS Publication 526. (DWB, 11/06/06)

The president of the foundation or his or her designee must approve all *quid pro quo* fund-raising efforts in advance. This includes but is not limited to review and approval of sample solicitation materials prior to printing and distribution to donors.

Extra care must be taken with auctions in meeting IRS requirements. The foundation may adopt special accounting arrangements for auctions.

> Interpretive Note. The Tax Court reaffirmed that purchases at a charity's "gala auction" do not as such constitute charitable contributions. It acknowledged that if the purchase price was more than the fair value, such difference could be deducted as a charitable contribution. It accepted the sponsor's valuation for goods and services sold at the auction without contrary evidence being offered. (Note: Under the 1993 Tax Act, additional receipting requirements may apply if the payment is more than $75 and any portion represents a contribution. See Chapter 9 .) The deduction claimed for total auction payments, together with other unsubstantiated deductions and unreported income, led the court to impose a fraud penalty on each and every item that resulted in underreporting of tax by the taxpayer. From: *Wealth & Tax Advisory Services: Tax Economics of Charitable Giving,* ¶4.03[09] Charity Auction Purposes. See also *CASE Standards* pages 32-33 and 58 and pages 27 and 41. (DWB, 1/14/08)

The foundation does not participate in raffles as raffles do not involve tax deductible gifts.

> Interpretive Note. A court has held that the cost of raffle tickets purchased from a charity is not deductible as a charitable contribution. The taxpayer in that case could not show that the value of the chances purchased was less than their cost. Accordingly, there was no evidence that the taxpayer made a charitable contribution. The IRS also has ruled that such costs are not deductible.
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> From: *Wealth & Tax Advisory Services: Tax Economics of Charitable Giving,* ¶4.03[11] Raffle Tickets. See also *CASE Standards* page 28. (DWB, 1/14/08)

B. Tangible Personal Property

1. Scope

Gifts of tangible personal property (also known as gifts-in-kind) include works of art, library and archival materials, boats, motor vehicles, telecommunications The foundation shall consider the acceptance of gifts of tangible personal property only after due diligence to determine if the property is:

- readily marketable; or
- can be applied by the university to a use related to one of the purposes for which tax-exempt status has been granted to the university.

A university employee associated with the proposed gift, assisted by a foundation representative, shall conduct the due diligence and report findings in writing to the president of the foundation or his or her designee. At a minimum, the report of findings shall include the following information:

- the donor's intent;
- evidence that the donor has ownership rights;
- description of the asset;
- the purpose of the gift and whether it is to be sold or retained for use;
- an estimate or appraisal of the gift's fair market value and an assessment of its marketability (Consistent with U. S. tax law, foundation policy requires an appraisal for all gifts greater than $5,000);
- an estimate of post-gift costs of ownership such as transfer, storage, security, operations, maintenance and insurance and sources of funds to support these costs and-or an estimate of costs of liquidation and how these costs will be handled (i.e., taken from the proceeds or paid from a separate source such as the benefiting unit or the donor);
- any special arrangements requested by the donor concerning disposition (e.g., price considerations,

time duration prior to disposition, potential buyers, etc.); and

- an assurance that the development officer has disclosed "Donor Responsibilities" and "Disclosures" (see below) to the prospective donor.

Gifts retained for university use. The foundation may receive gifts of tangible personal property on behalf of the university that are to be retained for use by a unit of the university. In addition to foundation acceptance of such a gift, the university must also consent to the gift. The senior administrator of the benefiting unit is responsible for accepting the gift and for providing for any costs of ownership and ensuring that university policies and procedures for capital assets are followed. The foundation is responsible for issuing an official acknowledgement for the gift. Such gifts are recorded in the alumni development database but not in the financial records of the foundation.

2. Acceptance

Interpretive Note. The board of regents must accept on behalf of any University System of Georgia institution gifts, bequests, agreements, or declarations of trust in those instances where the initial gift or trust estate is valued at $100,000 or more. This requirement applies only to gifts accepted by the university and does not apply to gifts accepted by the foundation and other "cooperative organizations." See board of regents policies "701.01 Private Donations to the University System and Its Institutions" and "1905 Cooperative Organizations." (DWB, 7/11/06)

Interpretive Note. As of July 1, 2006, the State of Georgia has a continuing moratorium on the acceptance of gifts of motor vehicles. (DWB, 7/11/06)

Interpretive Note. Units of the university may have their own policies governing the acceptance of tangible personal property. For example, see "Policy – Collection Development Library Materials Donation" on Library's web page. (DWB, 10/31/07)

Gifts to be liquidated. Consistent with the general policy on disposition, the foundation will typically liquidate gifts of tangible personal property not being retained for university use. The foundation, however, grants to the foundation president (or a designee) the authority to retain such property for foundation use when he or she deems it qualifies as related use property under U. S. tax law.

> Interpretive Note. When a non-cash charitable gift valued at more than $5,000 is sold by the foundation within two years of the date of gift, the foundation is required to file IRS Form 8282, Donee Information Return, and send a copy to the donor. (DWB, 12/2/04)

3. Valuation.

The foundation shall neither appraise nor assign a value to gift property. Valuation is the responsibility of the donor. The gift valuation may be different than the tax deduction value or the financial statement value.

> Interpretive Note. U. S. tax law requires that donors of non-cash gifts valued at more than $500 file Form 8283, Noncash Charitable Contributions, with their income tax returns. If the gift is valued at more than $5,000, a qualified appraisal is required (the threshold is $10,000 if a gift of closely held corporation stock). The signature of an officer of the charity receiving the gift is required on the form for gifts meeting the $5,000/$10,000 thresholds. The signature testifies to receipt but is neutral as to appraised value. (DWB, 7/11/06)

> Interpretive Note. Current law requires greater communication than in the past between donee charities and donors of automobiles, boats, and airplanes if the deduction claimed exceeds $500. The amount of the donor's charitable deduction is determined in part by the charity's use of the donated property. The valuation of property used to further the charitable purposes is different from the valuation of a qualified vehicle that is resold without significant intervening use or material improvement. If the vehicle is resold by or on behalf of the charity, the donor's charitable deduction is limited to the gross sales value. This requires a written statement, within 30 days of resale, by the charity to the donor confirming this value. In addition, stiffer penalties now apply for a charity that knowingly or willingly reports false information. If a donated vehicle has a significant and intervening use

or a material improvement or if the vehicle is resold significantly below fair market value, the valuation for charitable deduction purposes is not subject to the gross sales value rule. Instead, a number of factors can be used to determine fair market value but in no case can the claimed deduction exceed the private party value in a used-car pricing guide or comparable dealer trade-in values.

From: *Wealth & Tax Advisory Services: Tax Economics of Charitable Giving*, ¶25.30. Vehicles, Boats, and Airplanes. See also IRS Publication 4302, *A Charity's Guide to Vehicle Donations*, and IRS Publication 4303, *A Donor's Guide to Vehicle Donations.* (DWB, 7/11/06)

4. Disposition.

Unless all parties agree that the gift should be retained for university use, gifts of tangible personal property will be disposed of in accordance with foundation policy. In the case of gifts retained for university use, the gift will pass to the university immediately after the gift acceptance without the foundation taking possession or ownership or recording the asset in its financial records. If the university disposes of gifted property within two years of the date of gift, the responsibility for completing and submitting IRS form 8282 belongs to the university. If the foundation retained the property and sells it within two years, then the foundation is responsible for issuing form 8282. The foundation requests that the university give the foundation notice of the disposition by providing a copy of form 8282 (or an equivalent document if the gift value of the property falls below the form 8282 threshold) to the foundation.

Interpretive Note. When a non-cash charitable gift valued at more than $5,000 is sold by the foundation within two years of the date of gift, the foundation is required to file IRS Form 8282, Donee Information Return, and send a copy to the donor. (DWB, 12/2/04)

Interpretive Note. If the disposition value reported on form 8282 is lower than the charitable deduction taken on the donor's income tax return, this may cause the IRS to devalue the deduction and require the donor to file an amended return. (DWB, 12/2/04)

5. Donor Responsibilities.

The donor shall pay costs associated with the appraisal, transfer and the delivery of the gift.

6. Disclosures.

Acknowledgements given for gifts of tangible personal property shall include disclosures emphasizing the donors' responsibility to obtain tax advice.

C. Closely Held Business Entities

1. Scope.

This section applies to C and S corporations, limited liability companies and other forms of business organization with small numbers of owners and that are not publicly traded.

2. Acceptance.

The foundation shall consider the acceptance of gifts of closely held corporations only after due diligence by a development officer associated with the proposed gift. The development officer shall report findings in writing to the president of the foundation. Because of the esoteric nature and tax complexity of these gifts, the president of the foundation, in consultation with legal counsel, shall review and, when appropriate, accept such gifts on a case-by-case basis. At a minimum, the report of findings shall include the following information:

- the donor's intent;
- description of the property;
- the purpose of the gift;
- if intellectual property, its suitability as an investment, an estimate of costs (e.g., legal, accounting) associated with retention and sources of funds to support these costs; and

- an estimate or appraisal of the gift's fair market value and an assessment of prospects for liquidation.

S Corporation stock deserves special consideration as such shares could subject the foundation to unrelated business income tax and capital gains tax. Consultation with legal counsel may be required.

3. Valuation.

See "Gifts of Tangible Personal Property – Valuation."

4. Disposition.

It is the foundation policy to seek redemption of closely held corporation shares as soon as practicable.

5. Donor Responsibilities.

See "Gifts of Tangible Personal Property – Donor Responsibilities."

6. Disclosures.

See "Gifts of Tangible Personal Property – Donor Responsibilities."

7. Gifts of Real Estate

CASE Standards define gifts of real property as "land, its natural resources, and any permanent buildings on it." Gifts of real estate are also subject to foundation policies and guidelines entitled "Real Estate Property Acceptance Policy" and associated procedures and guidelines.

> Interpretive Note. The above referenced real estate policies and guidelines are posted on the foundation page of the university web site and on the Development Division intranet site. (DWB, 12/2/04 and 7/11/06)

D. Other Outright Gifts.

The following gifts, while rare, may present from time to time: oil/gas/mineral interests, bargain sales and intellectual property rights (royalties, patents, copyrights and contractual rights). Because of the esoteric nature and tax complexity of these gifts, the president of the foundation shall review these gifts with legal counsel and make acceptance decisions on a case-by-case basis.

HELP

People to contact

Position Title

Director, Gifts and Records Management
Vice President for Development/President of the Foundation
Assistant Vice President for Development/Chief Financial Officer of the Foundation
Associate Vice President for Development (Development Resources)

Additional information and helpful resources

NCPG Counting Guidelines, 2nd Edition
CASE Management and Reporting Standards, 3rd Edition

Foundation policy
2.1 Gift Acceptance Policy Title I, Principles and Definitions
2.3 Gift Acceptance Policy Title III, Pledges
2.4 Gift Acceptance Policy Title IV, Planned Gifts
2.5 Gift Acceptance Policy Title V, Restrictions on Gifts
2.6 Gift Acceptance Policy Appendices

Foundation procedures
2.2a Reciepts, Acknowledgement, Thank-You Letter Procedure