Gifts of Securities
Steps to Ensure Timely & Responsible Receipt
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Background

In many nonprofit organizations, the receipt and processing of gifts of securities and mutual funds are left to the Accounting or Treasurer's Office. The thought is that they are the only ones authorized to determine when to sell the asset; therefore, they should handle the receipt of the asset. This may be fine from a purely administrative perspective. However, this policy often gives rise to serious donor-relations issues.

When a business office handles the receipt and processing of gifts of securities, they usually do so in the context of a business transaction. They tend to be more concerned about the asset and selling or investing it than they are the donors. This attitude gives rise to opening numerous brokerage accounts across the country, sometimes with their authorizations – sometimes without – to facilitate the transfer of a gift within that same brokerage firm. The first indication to the business office that a gift has been made is when they receive a statement or check from that firm. It, therefore, could be a minimum of 30 days before an acknowledgment can be sent to the donor. And if the business office did not know that a gift was going to be made, they may never determine who made it. The Development Office finds out when the donor calls to complain that they never were thanked!

To eliminate this donor-relations problem, without removing the responsibility for the actual sale or investment of assets from the business office (and enhance their control), the following steps are suggested:

1. Close unnecessary brokerage accounts. Ideally, there should be a single account at a brokerage firm or bank for receiving gifts of securities. In addition, you should have "online" access to your gift account. This could be either a true online, real-time ability to look at gift activity or the ability to download, daily, a report reflecting gift activity from the previous day. As mentioned above, donors and brokers open many accounts without proper authorization from the nonprofit. But even if the nonprofit has authorized the opening of these accounts, they are unnecessary. In today's world of technology, the stock transfer can be done on a same-day basis electronically to any account in the country. Consolidating all activity in a single account gives you greater control and a stronger hand to negotiate a reduced brokerage fee. Certainly, there will be situations where it is prudent to keep an account or two open (the major donor's brother-in-law is the broker; the broker is a highly regarded alum), but these should be few and far between.

2. Inform donors of the change in procedure. Hopefully, your database has been structured such that all gifts of securities can be readily identified. In Advance, using a unique payment type to identify stock gifts does this. Using this identifier,

obtain the name and address of any individual who donated stock within the past three years. A short letter should be sent to these individuals informing them that you are changing your procedures for accepting gifts of stock. If they wish to make future securities contributions, they, or their broker, should contact your office for the most current electronic delivery (DTC) instructions. You **should not** publish these instructions anywhere – not in this letter, a brochure, or your website. Neither should you disseminate these instructions to your Development Officers. The entire organization should be instructed that should a donor approach them asking how to make a gift of stock, refer them to your office. You might consider making a flier explaining how to deliver certificates physically.

3. <u>Develop a tracking system.</u> When DTC processes are used, it rarely carries the donor's name. All you "see" is the name of the security, the number of shares, and the firm initiating the DTC. Your task is to match up a gift with a donor. Therefore, you must know **ahead of time** which donor is sending what. Hence the prescribed procedure of having the donor, or their broker, contact you first. When contacted, and before releasing the DTC instructions, you should obtain: Donor's name; Brokerage firm; Name, phone, and fax number of broker or agent; Name of stock and number of shares (or approximate target dollar amount); Purpose of gift. This information should be recorded in a searchable database (or as proposals in your CRM – as long as those can be key-word searched). This is important for two reasons. First, even though you will tell the donor or broker to **always** contact your office in the event of future stock gifts to confirm the transfer instruction, you will run into the occasional donor or broker who won't and will send a gift without informing you. By retaining information concerning prior gifts in a searchable format, you can query the database when a "rogue" gift comes in. Often, a donor will send the same stock a second time. Secondly, you can and should query the database regularly to identify notifications of gifts over a week old and have not been received. A follow-up call might be appropriate.

4. <u>Communicate with your broker.</u> Your broker must know what gifts are expected. This way, should they receive a gift that is not expected, they can raise a flag more quickly. The easiest way to alert them to what is coming would be to send an electronic copy of your tracking sheet. Ideally, when gifts are received, your broker will match up the stock with a tracking sheet and append the donor's name to the report of gifts they prepare for you. And, if a match cannot be made, your broker should communicate this information to you immediately by phone, fax, or email. In addition, they should provide you with the name of the transfer agent (firm), the name of stock and number of shares, and the approximate gift amount. With this information, you can query your database and check other internal sources to identify who the donor is, hopefully.

5. <u>Return unknown gifts.</u> It is important that gifts you receive, but where you cannot identify the donor, be returned (DK) timely. You should not "hold" these transfers for more than 48 hours. The gift, after all, may not belong to you! It is important, for tax purposes, that your broker adds a comment to the DK requesting the

initiating firm contact your office immediately upon receipt of the returned shares. As long as they contact you **before** crediting the shares back to the donor's account, and you can ascertain who the donor is and have the shares resent, the donor should still be able to claim the original date of transfer as the gift date. This is because the donor never regained control of the asset. Of course, they will need to confirm this with their tax advisor.

6. <u>The donor and department should receive equal credit.</u> Certainly, your donor should receive gift credit equal to the legal value of the gift. So, too, should the department that benefits from the contribution. This should occur regardless of brokerage fees or whether the stock is ultimately sold for a gain or loss. That is simply the price of doing business. Therefore, all proceeds from stock sales (excluding restricted or closely held stock) should be credited to a single "clearing" account. You then debit this account for the legal amount of the gift and credit the benefiting department. Ideally, your general ledger interface will automate this process. The clearing account will absorb all fees, gains, and losses. It can be proven that, over a period of years, the net is always positive. The institution can determine how often to flush this account and transfer the net to a spending account.

7. <u>Closely held and restricted stock requires different accounting.</u> In these cases, the timing of the sale is beyond the institution's control. While the donor should certainly receive gift credit equal to the legal value of the stock, it would not be appropriate for the institution to absorb the potential loss resulting from the sale in their clearing account. The exposure is too great. Therefore the benefiting department should first be contacted to determine if they wish to accept the closely held or restricted stock, understanding that they may not actually realize the "legal" amount of the gift. Usually, they will – something is better than nothing! Then, when the stock is ultimately sold, the entirety of the proceeds should be credited directly to the department.

8. <u>Outline procedures for physical delivery of stock.</u> Many donors own physical shares of stock that are not held in a brokerage account. Therefore these shares cannot be delivered electronically. It would be best if you were prepared to advise the donor on the safe and efficient methods available to deliver these shares. The first would be to hand-deliver the certificate to the institution and "endorse" the certificate in the presence of an institutional representative. A second way would be to mail the institution the unendorsed certificate and a "signature guaranteed" stock power in separate envelopes. The donor should be advised that the legal date of gift in these cases is the latter of the postmark dates of the two envelopes. If sent by a third party, such as Federal Express, it is the later of the dates of receipt by the institution. Some donors prefer to skip the stock power step and would rather sign and mail the certificate. If they do, suggest that they complete the line indicating the legal name of your institution. You may also recommend that the donor use certified or registered mail in this case. A final method available for the delivery of physical shares would be for the donor to send the

certificate back to the issuing corporation and have a certificate issued in the donee's name. This is not an advisable method of delivery. Doing so delays the turn-around time significantly. Furthermore, the legal date of gift in such cases is the date the certificate is registered in the name of the donee institution. That date could be weeks or months before the donee institution has physical possession of the certificate.

9. <u>Mutual fund donations require alternate procedures.</u> More often than not, mutual funds cannot be transferred by DTC. They can only be transferred to a like account and then sold. Therefore it is wise to educate your donors that if they wish to make a gift of a mutual fund, they should initiate the process well before the end of the calendar year. Depending on the firm, it could take upwards of a month to complete the necessary paperwork to open an institutional account with that firm. And note that your business office, or other department authorized to establish banking and financial institution relationships, will have to be involved in this process. Once the account is opened, you may provide the donor with your account number, and they can initiate the transfer. While your business office will likely instruct the firm to sell the shares upon receipt, you should not close the account. Rather, develop a list (in alphabetical order) of all mutual fund accounts that have been opened, including the account number, client number (if applicable), and contact phone number. You never know when another or the same donor will wish to transfer shares in the same fund.

10. <u>Don't forget the receipt!</u> The IRS regards gifts of appreciated assets, like stocks, bonds, and mutual funds, as gifts-in-kind. Therefore, in theory, only a description of the asset given is required on the receipt. However, many of our donors transfer these assets to satisfy an existing pledge – they want to know how much might still be outstanding. Therefore you might also wish to enclose a disclaimer (see below) with the receipt similar to the attached. This statement directs the donor to seek professional tax guidance. You might also remind the donor that they may need to file IRS form 8283 to claim this gift as a deduction. In most cases, the donee organization **does not** need to sign the 8283 for gifts of securities.

    "Thank you for your gift of X shares of Y stock, which we have valued for internal purposes only at $Z as of MM/DD/YY. For tax purposes, you will want to seek guidance from a tax professional in determining your deductible amount."