

# THE OTTAWA JEWISH COMMUNITY FOUNDATION



## **Gift Acceptance Policy**

The Ottawa Jewish Community Foundation was established to encourage donors to make both outright and deferred gifts. The types of deferred gifts that can be accepted include bequests, reinsured gift annuities, gifts of residual interest, charitable remainder trusts, gifts of life insurance policies and proceeds, and such other gift arrangements as the Board of Directors (hereinafter "the Board") may from time to time approve. All programmes, solicitation plans, and activities shall be subject to the oversight of the Board or as delegated by the Board to the Marketing Committee.

### **A. Policies:**

1. The policy of the Foundation is to inform, serve, guide or otherwise assist donors who wish to support the Foundation's activities on behalf of registered charities, but never under any circumstances to pressure or unduly persuade.
2. Persons acting on behalf of the Foundation shall in all cases require the donor to discuss the proposed gift with independent legal and/or tax advisors of the donor's choice, so as to ensure that the donor receives a full and accurate explanation of all aspects of the proposed charitable gift. The Foundation is not providing legal or tax advice to the donor, and has no liability to the donor for the donor's tax or legal position.
3. All deeds of gifts requiring execution by the Foundation shall first be reviewed and approved by the Foundation's legal counsel. Where substantially the same agreement is used repeatedly, only the prototype needs to be approved.
4. The following planned gifts must be reviewed and approved for recommendation to the Board by the Executive Committee. Before acceptance, relevant information (i.e. the value of the gift including a copy of any appraisal secured by the donor; a plan for how the gift will be used, and an assessment of any risks involved in accepting the gift) shall be ascertained. The Foundation also reserves the right to secure and rely on its own appraisal.
  - i. Outright gifts of real estate, shares in privately owned companies, tangible personal property, partnership interests, and other property interests not readily negotiable or valued.
  - ii. Residual interest gifts
  - iii. Charitable remainder trusts

5. Outright gifts of cash, publicly traded securities, life insurance, and reinsured gift annuities do not require approval by the Executive Committee. Any gift, however, may be referred to the Executive Committee for review, if subject to possibly unacceptable restrictions. The Executive Committee may obtain any advice it deems necessary to make its recommendation.
6. The Foundation will not issue gift annuities but may accept assets from a donor, pursuant to an agreement authorizing the Foundation to:
  - i. use a portion of the assets to purchase a commercial annuity paying a stipulated amount to the donor and/or other annuitant; and
  - ii. retain the remaining assets for charitable purposes.
7. The Foundation will not serve as trustee of charitable remainder trusts but may refer the donor to a trust institution that has agreed to provide this service.
8. The Foundation shall use this policy as a guideline to assist it in making decisions regarding any proposed gift.

## **B. Gift Acceptance**

### **(1) The Reinsured Gift Annuity**

#### *A. Description*

The Foundation does not issue gift annuities but may accept assets from a donor for the purposes of a reinsured gift annuity, pursuant to the terms outlined in this section. A gift annuity is an arrangement whereby a donor transfers assets to the Foundation pursuant to an agreement authorizing the Foundation to purchase a commercial annuity that will pay the stipulated amount to the donor and/or other annuitant. Assets in excess of the amount required for purchase of the commercial annuity are retained by the Foundation and used for mutually acceptable purposes outlined in a gift agreement. Determination of the amount of the donation receipt and taxation of annuity payments will be in accordance with the Income Tax Act and policies and regulations of Canada Revenue Agency. Professional advice should be obtained by the Foundation before issuing a donation receipt for income tax purposes.

#### *B. Guidelines*

1. The minimum amount the Foundation will accept for a reinsured gift annuity is \$10,000.
2. The cost of the commercial annuity generally should not exceed 70-75 percent of the assets transferred in order to result in a reasonable gift for the Foundation.

3. The donor may designate the purpose of the gift (amount retained) in a gift agreement. One option is for the Foundation to invest the gift (minimum of ten years) until it accumulates to an amount sufficient for the creation of a named endowment fund.
4. A commercial insurance company shall be selected and the terms of the annuity contract negotiated by the Foundation's chief financial officer or other person or persons to whom this responsibility is delegated by the Board of Directors of the Foundation.

## **(2) Gift of Residual Interest**

### **A. Description**

A residual interest gift refers to an arrangement under which property is deeded to the Foundation, but the donor retains use of the property for life or a term of years. For example, the donor might give a residual interest in a principal residence and continue living there, or a residual interest in a painting and retain possession of it. The method of valuing a residual interest for the purpose of determining the amount of a charitable donation will depend on the type of gift, other interests in the property and the documentation providing the gift. In the most general terms, provided the gift otherwise complies with the Income Tax Act and Canada Revenue Agency policies and regulations, the donor is entitled to a donation receipt from the Foundation for the fair market value of the residual interest. Professional advice is necessary for a determination of the value of the residual interest for the purpose of issuing a donation receipt.

### **B. Guidelines**

In the event of a residual interest in the real estate the donor shall continue to be responsible for real estate taxes, insurance, utilities and maintenance after transferring title to the property unless the Foundation, upon prior approval of the Executive Committee, agrees to assume responsibility for any portion of these items. The terms of the gift and responsibilities for expenses shall be specified in a deed of gift executed by the donor(s) and the Foundation.

The Foundation reserves the right to inspect the property from time to time and also to take other action including fulfilling the responsibilities of the donor to assure that its interest is properly safeguarded.

### (3) Charitable Remainder Trusts

#### A. Description

The charitable remainder trust is a form of a "residual interest" gift. The donor transfers property to a trust and the trustee (who could also be the donor although preferably not) manages the transferred property. If the property is income producing, the income can be paid to the donor (or to a beneficiary or to other beneficiaries named in the trust agreement). When the trust terminates (either at the death of the donor or other beneficiary or the expiration of a term of years), the property that remains in the trust ("residual interest") is distributed to the Foundation. If the trust is irrevocable and the donor foregoes his or her ability to have unlimited use of the property after it is transferred to the trust, the donor is entitled to a gift receipt for a discounted value of the transferred property that takes into account the use of the property by the donor until the trust terminates.

#### B. Guidelines

1. A charitable remainder trust may be funded with cash, securities or real estate subject to acceptance of the property by the Foundation. While the transfer of non-cash property may create a capital gain for the donor, recent changes to the rules concerning gifts of appreciated capital property will likely allow the donor to claim tax credits for the full amount of the taxable capital gain. If the donor makes a gift of real estate, he or she may be able to avoid the use of a formal trust agreement and simply transfer the property to the Foundation subject to registering a "life interest" on the title of the property in favour of the donor.
2. If a professional or corporate trustee is engaged to manage the property in the trust, there may be some restrictions as to the nature and extent of the property that can be transferred to such a trust.
3. The trust agreement shall be either drafted by or reviewed by the donor's own legal advisor. The Foundation may make prototype or precedent trust agreements available to the donor's legal advisor for review and consideration. However, the Foundation cannot accept a gift of a residual interest through such a trust until it is satisfied that the donor has received independent legal advice as to the trust agreement and that the gift is appropriate for the donor having regard to his or her circumstances both financial and otherwise.

#### **(4) Life Insurance**

##### **A. Description**

There are various methods by which a life insurance policy may be contributed to the Foundation. A donor may:

1. Assign irrevocably to the Foundation a paid-up policy
2. Assign irrevocably a life insurance policy on which premiums remain to be paid; or
3. Name the Foundation as a primary or successor beneficiary of the proceeds.

When ownership is irrevocably assigned to the Foundation, the donor is entitled to a gift receipt for the net cash surrender value (if any) and for any premiums subsequently paid.

##### **B. Guidelines**

Any of the above-mentioned types of life insurance gifts are acceptable to the Foundation. In the event a policy is contributed on which premiums remain to be paid, the Foundation will pay the premiums

- (i) Provided the donor makes equivalent contributions for that purpose or
- (ii) It is ultimately in the Foundation's best interest to do so, as determined by the Executive Committee, based on a recommendation by the Executive Director of the Foundation.

#### **(5) Gifts Of Real Estate**

##### **A. Description**

Gifts of real estate may be made in various ways: outright, residual interest in the property, or to fund a charitable remainder trust. The following guidelines pertain to gifts of real estate in general. Where real estate is transferred to a charitable remainder trust, additional requirements of the trustee must be met. Even where property is residential, inquiries should be made to determine any potential environmental liability for the Foundation and if warranted, an environmental assessment should be undertaken.

B. Guidelines

1. The donor shall secure a qualified appraisal of the property at their expense.
2. Unless the Foundation has reason to believe this appraisal does not reflect the property's true value, a gift receipt will be issued for the appraised value (or present value of the residual interest computed on the appraised value in the case of residual interest gifts). However, the Foundation reserves the right to secure its own appraisal and issue a gift receipt based on it.
3. The Executive Committee will require that the following information is available in order for it to ascertain that acceptance of the gift would be in the best interest of the Foundation:
  - Verification that the donor has clear title to the property
  - Marketability
  - Current use and cash flow
4. The Foundation shall only accept gifts of real estate that are residential in nature and not commercial or industrial properties.

**(6) Gifts of Shares in Privately Owned Companies and other Business Interests**

A. Description

Donors may make gifts of privately owned shares and partnership interests. These can be accepted by the Foundation so long as the Foundation assumes no liability in receiving them. In some instances the corporation is willing to redeem privately owned shares, or other stockholders are willing to purchase them.

B. Guidelines

1. To be considered for acceptance, partnership interests must not subject the Foundation to cash calls or other liability and must not have adverse tax consequences to the Foundation.
2. Privately owned shares may be accepted if they likely can be sold in the future to the corporation, other stockholders, or to others interested in acquiring the corporation.
3. A gift of shares is a gift-in-kind. The Foundation may issue a donation receipt for the fair market value of the privately held shares on the date the transfer of ownership takes place. The fair market value of the privately held shares is determined by obtaining an independent appraisal on the date of acceptance.

**(7) Bequests**

A. Description

Bequests have historically been the most important kind of deferred gift, and they have contributed significantly to the building of institutional endowments. The encouragement of bequests will be one of the highest priorities of the Foundation.

B. Guidelines

Sample bequest language for restricted and unrestricted gifts, including endowments, will be made available to donors and their lawyers to ensure that the bequest is properly designated. Donors will also be invited to provide information about their bequest provision and, if they are willing, to send a copy of that section of their will naming the Foundation.

During the probate of estates containing a bequest to the Foundation and during the post-death administration of revocable trusts containing dispositive provisions benefiting the Foundation, the Executive Director, in consultation with the Foundation's legal counsel, shall represent the Foundation in all dealings with the lawyer and executor of the estate.

**(8) Gifts of Publicly Traded Securities**

A. Description

The securities of publicly traded companies that are acceptable to the Foundation are those that are registered for trade at a securities exchange in Canada or the U.S. These also include mutual funds.

B. Guidelines

1. Gifts of publicly traded securities are eligible for a donation receipt for the fair market value of the gift assessed at close of market on the date of transfer or delivery.
2. Donors should be encouraged to donate publicly traded securities directly to the Foundation rather than selling them and donating the proceeds. This is because of the favourable tax treatment of this type of gift and the potential for minimizing capital gains taxes that the Donor would otherwise have to pay.
3. In most cases, the Foundation's policy is to sell all gifted shares as soon as possible.

## **(9) Appraisals**

Independent appraisals of the fair market value of the gift may be required for the following types of gifts:

- Personal property
- Real estate
- Art objects, intellectual property and cultural property
- Any unusual gift

Independent appraisals are required for all gifts-in-kind over \$1,000.00. The appraisal should be conducted by a professional appraiser, valuator or other individual who is accredited in the field of valuation and should be independent of both the donor and the Foundation or another party associated with the purchase, sale or donation of the property. In some unusual instances, it may be necessary to obtain more than one appraisal to establish the fair market value of the gift.

Gifts under \$1,000.00 require either an independent appraisal (as above) or if the cost of the appraisal is unreasonable or an independent appraisal cannot be secured, Canada Revenue Agency will permit the appraised value to be set by a qualified employee of the Foundation.

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The Board of Directors approved the Gift Acceptance Policy on April 27, 2005 electronically.