SECTION 21 - DEFERRED GIVING PROGRAM

Policy Sequence 21-000
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Introduction

In keeping with the long term objectives of the University, it is the policy of the Board of Directors of California State University, Long Beach Foundation (hereinafter, "The Foundation") to offer, through a full range of deferred giving vehicles, the opportunity for interested parties to make lifetime or testamentary charitable gifts utilizing a variety of instruments and reserving income for themselves and/or their beneficiaries. By providing adequate staff and resources to assist individuals and their advisors in selecting those programs which best achieve their philanthropic and personal estate planning objectives, this Deferred Giving Program will provide a meaningful planning resource to individuals in the community while building long range resources for the University.

The modes of deferred charitable giving outlined below enable a donor to make a valuable contribution to California State University, Long Beach while maximizing the income, gift and estate tax advantages of his or her charitable gift.

There are a variety of deferred giving vehicles with different administration costs based on the needs and desires of the donor. Prior to setting a fee, the donor's charitable vehicle needs to be reviewed and a fee set based on the amount of the gift, trust term, type of asset placed in trust, and the donor's investment objectives. The recommended fee structure sets out the maximum fee that can be charged.

Methods of Making Deferred Charitable Gifts

Policy # 21-000.1

Outright Gifts

An outright gift of cash, securities, tangible personal property, real estate or other property confers an immediate benefit on the Foundation and provides the donor with a current income tax charitable deduction in the year in which the gift is made. While there are limits on the charitable contribution amount which may be deducted in a given tax year, these limits are liberal, and any excess deduction can be deducted over the five succeeding tax years. An outright charitable gift also qualifies for a gift tax deduction, thus allowing the donor to transfer the donated property, and all future appreciation on the property, out of his or her estate at no transfer tax cost.

A gift of appreciated or depreciated property to the Foundation does not result in the recognition of gain or loss for federal income tax purposes. Therefore, the value of a gift of appreciated property is enhanced by an amount which would have been paid as a capital gains tax had the property been sold. Depreciated property, conversely, should not be donated directly but should be sold and the proceeds donated, so that the donor does not forfeit the potential capital loss deduction.

One form of outright gift which may yield a substantial income tax deduction is the contribution of a life insurance policy to the Foundation. Provided the donor retains no incidents of ownership in the policy, the donor obtains a deduction equal to the lesser of the current cash value of the policy or his or her tax basis in the policy (i.e., the total premiums paid prior to the gift). In addition, if the donor continues to pay the premiums on the policy, the payments qualify for the charitable deduction.

A hybrid form of outright gift is a bargain sale, which involves the sale of property to the Foundation for an amount that is less than the property's fair market value. The excess of the fair market value over the sales proceeds is treated as a charitable contribution. The sale component is a taxable event and may generate taxable gain if the proportion of the donor's tax basis in the property allocated to the sale is less than the sales proceeds. However, any taxable gain would be offset (in whole or in part) by the charitable deduction for the gift component of the bargain sale. An outright contribution of property subject to debt is treated as a bargain
sale to the extent of the debt.

The maximum fee for outright gifts would be a reimbursement of expenses and 15% at the time of distribution.

Gifts of Remainder Interests

By donating a remainder interest in property to the Foundation, a donor can obtain the current income tax advantages of a charitable gift, the future estate tax advantages of a charitable bequest, and can retain present enjoyment of the donated property. A person who is a specialist in the field of deferred giving should be consulted regarding a gift of a remainder interest or of an income interest (discussed below), because technical requirements must be met in order to qualify such a transfer for the desired tax treatment.

A. **Remainder Interest in Personal Residence or Farm.** Ordinarily, a gift of a remainder interest must be made in trust in order for the donor to obtain the desired tax deductions. One exception is the gift of a remainder interest in any personal residence (including a vacation home) or farm. A donor may, instead of devising such property to the Foundation in his or her Will, make a current contribution of a remainder interest in the residence or farm. The donor can continue to live in the residence or operate the farm until his or her death, and will receive present income tax and gift tax deductions equal to the value of the remainder interest contributed. On the donor's death, the property will be included in his or her estate, but the estate will receive an offsetting estate tax charitable deduction equal to the value of the property.

The maximum fee for a gift of remainder interest in personal residence or farm would be a reimbursement of expenses and 15% at the time of distribution.

B. **Charitable Remainder Trusts.** A donor may wish to transfer property to a charitable remainder trust, providing for a fixed or variable payment (based on a percentage of the value of the trust assets) for himself or herself and/or one or more other beneficiaries, and naming the Foundation as the remainder beneficiary of the trust property. If the technical requirements for such a trust are met, the donor will receive present income and gift tax deductions measured by the value of the remainder interest which is being donated. The property will be included in the donor's taxable estate at death, but will be fully offset by an estate tax charitable deduction.
A qualified charitable remainder trust is tax-exempt. The transfer of appreciated property to the trust will not result in taxable gain to the donor; and the sale of the property by the trust will not result in taxable gain to the trust. Thus the donor's appreciation in the property can be "unlocked": the trust may sell appreciated property (tax-free) and diversify or reinvest in high yield investments for the donor's benefit (as lifetime beneficiary) without the usual capital gains tax cost to the donor. The 1986 tax law changes did not eliminate this advantage of avoiding capital gains tax, although the appreciation element would constitute a "tax preference item" if the donor is subject to the alternative minimum tax.

Under a "tier system" of taxation, the trust distributions received by the donor or other trust beneficiaries may be taxable at lower than ordinary income tax rates, and may even be tax-free. Additional income tax savings may be obtained by spreading the trust payments among several non-charitable beneficiaries, and/or by naming trust beneficiaries who are in low income tax brackets. Moreover, the trust assets will be excluded from the donor's probate estate, thus reducing or eliminating the costs and delays involved in a probate proceeding.
A donor can select from among three basic trust forms: the charitable remainder annuity trust, the charitable remainder unitrust, and the pooled income fund. Each may be created either by inter vivos gift during lifetime, or by Will to take effect at the donor’s death.

1. **Charitable Remainder Annuity Trust.** The charitable remainder annuity trust payout is based on a specified percentage (at least 5%) of the initial value of the trust. Therefore, this vehicle will provide a fixed annuity payment regardless of fluctuations in the trust income and in the value of the trust assets. After the initial contribution, no further contributions may be made to the annuity trust.

2. **Charitable Remainder Unitrust.** The charitable remainder unitrust payout is based on a specified percentage (at least 5%) of the value of the trust as valued annually. Therefore, this vehicle will provide a variable payment, will be responsive to economic change, and will be less vulnerable to erosion caused by inflation. Additional contributions may be made to a unitrust subsequent to the initial contribution.

   The donor can (but need not) limit the unitrust payments to the annual income of the unitrust, and can also provide that deficiencies in the unitrust payments caused by the limitation of payments to trust income are to be made up in years when the trust income exceeds the unitrust amount. Thus, the trustee of an "income only" unitrust with a "makeup" provision could invest in low-yield, growth assets until the donor’s retirement, whereupon the assets could be converted to high-yield assets and the deficiencies made up. The donor would receive a present income tax deduction and reduced payments when his or her tax rates are high; and, after retirement, would receive increased payments when his or her income tax rates may be reduced.

3. **Pooled Income Fund.** The donor may choose to contribute to the Foundation's pooled income fund which is managed by Union Bank. A pooled income fund is comprised of property contributed by a number of donors. Each donor's contribution is added to the fund, and he or she receives a share of the fund's income proportionate to his or her contribution. The fund, like a mutual fund, provides the donor with diversification and professional management of his or her investment.

   The maximum fee for charitable remainder trust is 2% annually plus reimbursement of expenses and 15% at the time of distribution.

C. **Q-TIP Trust with Charitable Remainder.** The Economic Recovery Tax Act of 1981 made available a deferred giving vehicle which is similar to a qualified charitable remainder trust but without the stringent technical requirements. A person can establish a "qualified terminable interest property" trust ("Q-TIP trust") for the benefit of his or her spouse, with the remainder to the Foundation. There is no charitable income tax deduction and the trust is not tax-exempt (because it is not a charitable remainder trust). However, the entire trust qualifies for the marital deduction in the first spouse's estate and for the charitable deduction in the second spouse's estate, and thus generates no tax with respect to either the spouse's life interest or the charitable remainder trust.

   A Q-TIP trust with a charitable remainder is flexible. For example, trust payments to the surviving spouse need not be limited to an annuity or unitrust amount, but may be determined by the needs of the surviving spouse.

   The maximum fee for Q-TIP trust with a charitable remainder is 2% annually plus reimbursement of expenses and 15% at the time of distribution.
D. **Charitable Gift Annuity.** A donor may obtain an income tax deduction by contributing property in return for an annuity to be paid for the life of the donor and/or one or more other annuitants. Annuity payments may begin immediately or may be deferred (for example, until retirement, when the donor may need additional income and may be in a lower income tax bracket.

The measure of the charitable income and gift tax deductions is the amount by which the value of the property contributed exceeds the present value of the annuity. Each annuity payment will be partly taxable income and partly tax-free return of capital for the donor's remaining life expectancy when the cost of the annuity will be fully recovered. Should the donor live beyond life expectancy, all further payments will be fully taxable. In addition, the donor will have successfully removed the contributed property, and all appreciation on the property, from his or her estate; and the donor's annuity, since it terminates on his or her death, will not be subject to estate tax.

The maximum fee for charitable gift annuity is 2% annually plus reimbursement of expenses and 15% at the time of distribution.

**Gifts of Income Interests**

A donor may wish to create a charitable lead trust. Such a trust would make a fixed annuity payment or variable unitrust payment to the Foundation for a specified term. At the end of the term, the trust property would return to the donor (perhaps at retirement) or would be distributed to non-charitable beneficiaries such as children.

Dramatic transfer tax savings can be achieved by a charitable lead trust. If the remainder interest in the trust passes to beneficiaries other than the donor, the transfer will be a taxable gift. However, the gift tax deduction allowed for the gift of the charitable income interest to the Foundation will greatly reduce the gift tax to be paid for the transfer of the property to the remainder beneficiaries. If appreciating assets are used to fund the trust, the donor can remove the assets, and all appreciation on the assets, from his or her estate at little or no transfer tax cost. Although there will be a delay in passing the trust assets to the remainder beneficiaries, the transfer tax savings should compensate for the postponement. Moreover, if the lead trust period coincides with the minority of the beneficiaries, such a delay may be desirable.

The income taxation of a charitable lead trust depends on whether the donor is treated as "owner" of the trust for tax purposes. If the trust is drafted so that the donor is the owner, the donor will receive an income tax deduction for the value of the interest provided for the Foundation, but will subsequently be taxed on the trust income. A donor who has unusually high income in one year may wish to create a charitable lead trust in that year, in order to obtain a deduction against current income which is being taxed at high rates, and thereafter pay tax on trust income at lower rates. If the trust is drafted so that the donor is not the owner, the donor will receive no initial income tax deduction, but will not be taxed on trust income as it is received.

The maximum fee for gifts of income interests is 2% plus reimbursement of expenses and 15% at the time of distribution.

**Testamentary Gifts**

All of the techniques described above can be made in a Will or Trust operative only upon death. No income tax deductions would be available, but estate tax deductions would be. The estate tax deduction for testamentary gifts to charity is not subject to percentage limitations, as is the charitable income tax deduction. Thus, the entire value of any charitable bequest to the Foundation would be fully deductible for estate tax purposes.
Charitable remainder or lead trusts can be created by Will as well as by gift during lifetime. For a large estate, the lead trust may be particularly valuable as a means of easing liquidity needs and preserving estate principal (by reducing or eliminating the estate tax on the trust assets) for transfer to non-charitable beneficiaries at a future date.

A Q-TIP trust for the benefit of a testator's surviving spouse, with the remainder to the Foundation, may be very attractive as a testamentary vehicle. The trust property would obtain a full marital deduction in the first spouse's estate and a full charitable deduction in the surviving spouse's estate, and would thus avoid all tax in both estates. As noted above, a Q-TIP trust is flexible in that the distribution provisions can be designed to accommodate the needs of the surviving spouse.

The determination of the most tax-effective form for a contribution to the California State University, Long Beach Foundation is a highly individual matter which depends on many factors, including the donor's income, non-charitable income tax deductions, marital status, projected future income, and the nature of the donor's assets. The Foundation's deferred giving experts, working with the donor's own financial and legal advisors, can assist the donor in determining the most advantageous means of fulfilling his or her charitable giving objectives -- with regard to a single contribution or a deferred gift.

The Foundation, of course, must reserve the right to decline to accept gifts of certain types of property in view of various risk factors and administrative concerns and in keeping with its overriding charitable purpose.

**Deferred Giving Policy Guidelines**

**Policy # 21-010.1**

**Effective Dates**

These policy guidelines were effective on May 19, 1994. This policy shall be reviewed annually or as necessary due to significant changes in tax law or the scope of the University’s program.

**Amendments**

A. Responsibility for review and suggested amendments shall be that of the Board of Directors, California State University, Long Beach Foundation, based on input from the persons referred to in Item IV, A, below.

B. The procedure to amend these Guidelines shall be as follows: A written amendment shall be presented to the Secretary of the Board of Directors in sufficient time to be placed on the agenda of the next following Board meeting.

**Endowment Development/Deferred Giving Committee**

A. An Endowment Development/Deferred Giving Committee shall be appointed at the discretion of the Vice President for University Relations and Development to assist in the interpretation and execution of these Guidelines.

B. The Endowment Development/Deferred Giving Committee's role shall be advisory.

**Governing Authorization for Negotiations**

A. Authorization to negotiate deferred giving agreements with prospective donors, following the Guidelines and the format of any specimen agreements approved by the Board of Directors, without further approval of the Board is given to:
Position:

Vice President University Relations and Development
Associate Vice President Financial Management
Executive Director California State University, Long Beach Foundation
Director Deferred Giving
Assistant Director Deferred Giving

The following shall have authority to sign deferred giving agreements on behalf of our institution:

President California State University, Long Beach
Vice President University Relations and Development
Executive Director California State University, Long Beach Foundation

B. All agreements which do not follow the format of the specimen agreements or otherwise meet the requirements of the following Guidelines shall receive the approval of the Vice President for University Relations and Development and the Associate Vice President for Financial Management.

C. The Deferred Giving Program Director's primary responsibility is to the donor. It is the Director's responsibility to maintain an ongoing relationship with donors, including: reviewing the trust on an annual basis, assuring timely payment of distributions, reviewing investment objectives, providing appropriate honors and awards, etc.

Governing Property Received

When property other than cash, listed securities, or securities traded over the counter is involved, the approval of the Vice President for University Relations and Development and the Executive Director of the California State University, Long Beach Foundation shall be required.

Governing Use of Legal Counsel

A. The Foundation shall seek the advice of legal counsel in all matters pertaining to the Deferred Giving Program and will not execute any agreement without the advice of an attorney representing the Foundation.

1. The Foundation will urge all prospective donors to seek the advice of their own attorney or tax advisor in reviewing the state and Federal income tax and the estate and gift tax consequences of their gift, the terms of any trust or other agreement, and the advisability of the gift in light of the donor's overall estate plan and financial circumstances.

2. If requested, the Foundation's counsel will be called upon to draft trust, annuity or other gift documents, subject to approval by the donor's own counsel. While the Foundation's counsel will not ordinarily draft a donor's will or codicil, the Foundation's counsel may prepare suggested language pertinent to a bequest to the Foundation to be submitted to the donor's attorney for inclusion in the donor's will or codicil.

3. The Foundation's counsel may also be called upon to review and comment upon documents drafted by the donor's attorney.

4. Staff members of the Foundation and University shall not give legal, financial or investment advice to prospective donors.

5. All staff members of the University and the Foundation shall conduct all activities
undertaken on behalf of the University and the Foundation in accordance with accepted professional standards of accuracy, truth, integrity and good faith.

Governing Charitable Remainder Unitrusts

A. The policy of the Foundation regarding trusteeship of charitable remainder unitrusts is as follows:

The choice of trustee is ultimately the donor's decision. The Foundation will encourage donors to seek a corporate trustee to serve as trustee of charitable remainder trusts where the Foundation does not serve as trustee.

Except in specifically approved cases, the Foundation may serve as trustee only when 51% of the remainder interest is directed to the University, the income beneficiaries have attained the age of 60 or older, and the remainder value is $50,000 or more at the time of the creation of the trust.

Regarding service as a co-trustee, as a general rule the Foundation will not serve as a co-trustee of a charitable remainder trust, particularly where the other trustee is the donor.

B. The following are general guidelines for accepting charitable remainder gifts, particularly when the Foundation is trustee.

$ No charitable remainder unitrust to be funded with a single, lump-sum contribution shall be entered into with a donor for a sum less than $50,000.

$ For life unitrusts funded with a lump-sum contribution, no beneficiary shall be under the age of 40.

$ The maximum number of beneficiaries shall be two in a life income trust and unlimited in term of years arrangements.

$ No property will be accepted as trust corpus which will violate any sections of the tax code pertaining to charitable remainder unitrusts.

$ Property subject to debt generally will not be acceptable.
Non-income producing property shall be accepted in a charitable remainder unitrust only when the unitrust has a provision allowing for the payment of actual income earned, only, or, as an exception, the trust is supplemented with a transfer of cash or readily marketable securities.

Responsibility for the tax accounting of the trust shall be with the Foundation.

Governing Charitable Remainder Annuity Trusts

A. The policy of the Foundation regarding trusteeship of charitable remainder unitrusts is as follows:

The choice of trustee is ultimately the donor's decision. The Foundation will encourage donors to seek a corporate trustee to serve as trustee of charitable remainder trusts where the Foundation does not serve as trustee.

Except in specifically approved cases, the Foundation may serve as trustee only when 51% of the remainder interest is directed to the University, the income beneficiaries have attained the age of 60 or older, and the remainder value is $50,000 or more at the time of creation of the trust.

Regarding service as a co-trustee, as a general rule, the Foundation will not serve as a co-trustee of a charitable remainder trust, particularly where the other trustee is the donor.

B. The following are general guidelines for accepting charitable remainder gifts, particularly when the Foundation is trustee.

No charitable remainder annuity trust to be funded with a single, lump-sum contribution shall be entered into with a donor for a sum less than $50,000.

For life unitrusts funded with a lump-sum contribution, no beneficiary shall be under the age of 40.

The maximum number of beneficiaries shall be two in a life income trust and unlimited in term of years arrangements.

No property will be accepted as trust corpus which will violate any sections of the tax code pertaining to charitable remainder annuity trusts.

Property subject to debt generally will not be acceptable.

Property shall be accepted in a charitable remainder annuity trust only when it has an income flow sufficient to meet the payout factor of the trust, or has sufficient liquidity with which to make up any deficit in income.

No charitable remainder annuity trust will be issued in which there is less than a 5% probability of a charitable remainder interest, as computed using government tables.

Responsibility for the tax accounting of the trust shall be with the Foundation.

Governing Pooled Income Fund Trusts

A. The trustee of the pooled income fund shall be an independent bank or trust company, and the Foundation shall retain power to remove the trustee or trustees of the fund and designate a new trustee or trustees.

B. No pooled income trust agreement shall be entered into with a donor for a sum of less
than $2,500.

C. No beneficiary shall be under the age of 40.

D. Generally, pooled income fund agreements shall not cover more than two lives.

**Governing Charitable Gift Annuities** (subject to California Department of Insurance review and acceptance of licensing application)

A. The Foundation's investment policy governing gift annuity reserves shall establish an irrevocable trust to hold annuity reserves and deposit into this trust the actuarial value of the charitable gift annuity in concert with state regulation.

B. The University reserves the right to reinsure any and all gift annuities.

C. No gift annuity will be issued for an amount less than $2,500.

D. No agreement shall be issued where a beneficiary is under the age of 50.

E. The rates payable on charitable gift annuities shall be those established by the Committee on Gift Annuities from time to time.

F. Annuity payments shall be made at the discretion of the donor on a monthly, quarterly, semi-annual or annual basis, but in no event shall the amount of such payment be less than $10, except for annual payments.

G. No gift annuity agreement shall be for more than two lives.

**Governing Deferred Payment Charitable Gift Annuities**

A. The investment policy governing deferred payment charitable gift annuities shall be the same investment policy used for current charitable gift annuities.

B. No deferred payment gift annuity shall be issued for an amount less than $10,000.

C. No agreement shall be issued where a beneficiary is under the age of 40.

D. The rates payable on deferred payment charitable gift annuities shall be those established by the Committee on Gift Annuities from time to time.

E. The period of deferral between the transfer for the deferred payment annuity and the date the annuity payments commence shall be no more than 25 years.

F. Deferred annuity payments shall be made at the discretion of the donor on a monthly, quarterly, semi-annual or annual basis, but in no event shall the amount of such payment be less than $10, except for annual payments.

G. No deferred payment annuity agreement shall be for more than two lives.

**Governing Life Estate Agreements**

Cases involving life estates will be individually reviewed at the Foundation prior to acceptance.

If state law requires participation of the remainderman in any capital improvements on property subject to a life estate agreement, no expenditures for capital improvements will be made without approval of the Foundation Board of Directors.
Governing Wills and Trust Instruments Not Qualified as Charitable Remainder Unitrust or Annuity Trust Agreements

A. Policy concerning drafting of wills and certain trusts not qualifying as charitable remainder unitrust and charitable remainder annuity trust agreements shall be that the organization shall not draft any instruments but may provide referral sources to known competent professionals.

B. Concerning the payment of legal fees, the Foundation may employ its own legal counsel to assist the donor and his or her advisors in drafting provisions which relate to all types of gifts to the Foundation or the University. In all cases, review by the donor's own counsel of the work performed by the Foundation's counsel must be advised.

Governing Bequests

A. No bequest shall be authorized to be received by the Foundation without the approval of the Vice President for University Relations and Development and/or the Executive Director of the Foundation. The Foundation reserves the right to disclaim any bequest determined not to be acceptable.

B. The general policy of the Foundation concerning bequests which are contested is that we will defend with all legal means the right of an individual to determine his beneficiaries, and the right of the Foundation to receive gifts.

Governing the Reporting of Deferred Giving

A. The Foundation recognizes that it is in a position of trust with the donor, and that the donor has placed trust in us concerning confidentiality. Therefore, all governing instruments will be kept in a locked fireproof file, which will be accessible to individuals with approval of the Vice President for University Relations and Development.

B. It shall be known throughout the Foundation that this is confidential information.

Governing of Designated Proceeds

A. All designated proceeds will be used per the requested designation, with the exception that up to 15% of the gift will be available to the general assets of the Foundation to help underwrite the deferred giving program.

An annual fee will be charged up to a maximum of 2% annually. To determine the appropriate fee, the factors must be considered:

1. Type of payout provision and percentage amount
2. How income is defined (capital appreciation can be defined as income)
3. Expected length of trust existence
4. Donors investment objectives (growth, income, balances)
5. Type and value of assets under trust

B. All un-designated bequests and matured deferred gifts will be utilized in accordance with the mission of the University.