After participating...

...you will be able to improve the accuracy of your shop’s non-cash gift processes and the effectiveness of your gift acceptance decision-making.
OVERVIEW

- Recap: defining non-cash gifts and responsibility context
- Understanding additional distinctions that will be important to your donors
- Receipting/IRS forms/valuation/counting
- Gift acceptance
- Case studies

THE EVER-NECESSARY DISCLAIMER

- What I am NOT:
  - An attorney
  - A tax advisor
  - An accountant
  - Your attorney, tax advisor, or accountant
  - Providing legal, tax, or financial advice
#AItraining

## RECAP: DEFINING NON-CASH GIFTS

**WHAT IS A NON-CASH GIFT?**

- The IRS doesn’t typically use the terms “Gift-in-Kind” or “In-Kind Gift.”
- The IRS talks about gifts in 2 categories:
  - Cash
  - Property other than Cash (“Noncash Gifts”)
- If it’s property other than cash, it’s a non-cash (in-kind) gift!
  - Technically, gifts of publicly-traded securities are noncash (in-kind) gifts.
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

- WHAT IS A NON-CASH GIFT?

  • Is the gift property, or cash?
    – Did the donor transfer securities to you, or sell the securities and transfer cash?
      • If the shares were sold from the donor’s account, or a clearing account, the gift is a cash gift.
      • Your organization never took permission of the shares.
      • Probably has negative consequences for the donor’s deduction.

- DONOR RESPONSIBILITIES

  • The donor has certain responsibilities
    – Determining whether to claim a charitable deduction
    – Determining the period in which to claim a deduction
    – Determining the amount to claim as a deduction
    – Obtaining written substantiation for gifts of $250 or more
DONEE RESPONSIBILITIES

- The donee has certain responsibilities:
  - Stating the name of the organization
  - Verifying what was received from the donor
    - The amount of a cash gift
    - A description of any property other than cash
      the taxpayer transferred to the donee
      organization
  - Disclosing any substantial goods or services that
    were provided to the donor in return for the gift
  - Providing written disclosure when receiving more
    than $75 partly as a contribution and partly in
    exchange for goods and services

DONOR AND DONEE RESPONSIBILITIES

- Donor and donee responsibilities expand slightly
  for certain non-cash gifts
  - IRS Forms 8282 & 8283
  - Qualified appraisals
  - Unrelated use
  - IRS Form 1098-C
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

**CONTEXT: RESPONSIBILITIES**

- Why would you care about the donor’s responsibilities?
  - So that you can be clear about what’s not your responsibility
  - So that you can understand why certain details of a gift might be important to the donor
  - To provide a high level of customer service
  - **Never** to offer tax advice to the donor!

**TYPES**

- Publicly traded securities
- Closely held securities
- Real property
- Tangible personal property
- Intangible property
UNDERSTANDING ADDITIONAL DISTINCTIONS THAT WILL BE IMPORTANT TO YOUR DONORS

INTANGIBLE PROPERTY

- “Intangible Property is property that has value but cannot be seen or touched.” -IRS Pub. 526
- Intangible personal property includes:
  - Patents and copyrights
  - Customer or subscription lists, location contracts, and insurance expirations
  - Designs and patterns
  - Franchises
  - Agreements not to compete
INTANGIBLE PROPERTY

- Considered intangible personal property, but a special case
  - Concern about difficulty of determining value of contribution
  - Often the donor's deduction was much greater than the benefit that the charity realized
  - The tax code was changed by the American Jobs Creation Act of 2004.

INTANGIBLE PROPERTY

- Donors deduct *either* the amount they spent to create the item or its fair market value, whichever is *smaller*.
  - Donors had been able to deduct fair market value in all cases, including potential future income.
ADDITIONAL DISTINCTIONS

• Not characteristics of the property itself
  – Use of property
  – Relationship of property to donor

ADDITIONAL DISTINCTIONS

• Related or Unrelated Use
  – Contributed property must benefit the recipient organization — and the organization’s purpose — one way or another.
    • Related use
    • Unrelated use
• Related use
  – Related to the purpose or function constituting the basis of the charitable organization’s exemption under section 501.
    • A painting contributed to an educational institution and used by that organization for educational purposes by being placed in its library for display and study by art students
    • Furnishings contributed to a charitable organization and used in its offices and buildings in the course of carrying out its functions

• Unrelated use
  – Unrelated to the purpose or function constituting the basis of the charitable organization’s exemption under section 501.
    • A painting contributed to an educational institution which is sold and the proceeds used by the organization for educational purposes
    • A bottle of wine contributed to a charitable organization and sold at a fund-raising auction
ADDITIONAL DISTINCTIONS

• Related or unrelated use
  – Not a characteristic of the type of property being contributed
  – Nothing to do with how the donor acquired the property, how long the donor has held it, etc.
  – Only has to do with how the organization intends to use the property

ADDITIONAL DISTINCTIONS

• Donor issue: Related or Unrelated Use
  – The amount that can be deducted for contributions of tangible personal property is affected by whether the property is put a related or unrelated use.
    • Related use: full fair market value
    • Unrelated use: donor’s “basis” (typically what the donor paid)
  – Generally this only becomes an issue for items that appreciated in value while the donor owned them (paintings, jewelry, etc.).
ADDITIONAL DISTINCTIONS

• Donor Issue: Depreciable Property
  – Depreciable property is property used in business or held for the production of income and for which a depreciation deduction is allowed.
  -IRS Pub. 526

• Donor Issue: Ordinary Income Property
  – Has to do with deductibility for the donor.
    • Property is ordinary income property if its sale at fair market value on the date it was contributed would have resulted in ordinary income or in short-term capital gain. (IRS Pub. 526)
  – Not important to the recipient organization (except in understanding a donor’s possible concerns!).
ADDITIONAL DISTINCTIONS

- Ordinary Income Property
  - This includes:
    - Inventory
    - Depreciated property used in a trade or business
    - Works of art created by the donor
    - Manuscripts prepared by the donor

ADDITIONAL DISTINCTIONS

- Donor Issue: Capital Gain Property
  - Has to do with deductibility for the donor.
    - Property is capital gain property if its sale at fair market value on the date of the contribution would have resulted in long-term capital gain. Capital gain property includes capital assets held more than 1 year. -IRS Pub. 526
  - Not important to the recipient organization (except in understanding a donor’s possible concerns!)
**WHAT IS NOT A NON-CASH GIFT?**

- Certain transactions do not meet the basic definition of a gift.
  - It can be easy to get distracted
    - Hey, look, it’s not cash!
    - It’s also not a charitable contribution.

- Contributed services
  - You cannot deduct as a charitable contribution...the value of your time or services.
  
  -IRS Pub. 526
WHAT IS NOT A NON-CASH GIFT?

- Contributions from which the donor benefits
  - You cannot deduct as a charitable contribution ...
    the part of a contribution from which you receive or expect to receive a benefit.

- IRS Pub. 526

WHAT IS NOT A NON-CASH GIFT?

- However, be aware that accounting standards treat contributed services differently
  - Contributions of services are recognized ... if the services received (a) create or enhance nonfinancial assets or (b) require specialized skills, are provided by individuals possessing those skills, and would typically need to be purchased if not provided by donation.

- FAS Statement No. 116
WHAT IS NOT A NON-CASH GIFT?

- Out-of-pocket expenses incurred while doing volunteer work for a qualified organization
  - Such expenses are gifts.
  - The IRS considers those to be cash gifts.

-IRS Form 8283 Instructions

VALUATION AND COUNTING
FOR IRS PURPOSES:

- Determining the amount of the deduction is the donor’s responsibility
- Therefore determining the value of the gift is the donor’s responsibility
- All about determining the Fair Market Value (FMV) of the property on the date of the contribution
- Addressed in IRS Publication 561, Determining the Value of Donated Property

FOR IRS PURPOSES:

- Gifts of publicly traded securities valued at the mean of the published high and low trading values on the date of contribution
- Qualified Appraisal required for other types of gifts of property for which a deduction of more than $5,000 is claimed (for one item or a related group of items)
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

FOR CASE PURPOSES:

- Standard is Qualified Appraisal to record a value of $5,000 or more
  - Can use a copy of the appraisal obtained by the donor for tax purposes
  - If the donor does not need/obtain an appraisal or does not share it, can use appraisal obtained for insurance purposes

FOR CASE PURPOSES:

- For gifts of $5,000 or less, you can use:
  - Qualified appraisal, if available
  - Value declared by donor
  - Value determined by qualified expert on faculty or staff
  - Value of winning bid at charitable auction, if no FMV declared
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

MOTOR VEHICLES, BOATS & AIRPLANES

- Considered tangible personal property, but a special case
  - Concern about the difficulty of determining value of contribution
  - Often the donor’s deduction was much greater than the benefit that the charity realized
  - The tax code was changed by the American Jobs Creation Act of 2004.

IRS FORM 1098-C

#AItraining
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

**MOTOR VEHICLES, BOATS & AIRPLANES**

- Distinction now made based on intended use by donee
  - significantly use or materially improve the vehicle
  - donates or sells the vehicle to a needy individual at a significantly below-market price, for the charitable purpose of helping a poor person in need of a means of transportation.
  - sell the vehicle and use the proceeds
- Deductibility is affected for donor
- Additional responsibilities placed on donee

---

**MOTOR VEHICLES, BOATS & AIRPLANES**

- Sell the vehicle and use the proceeds
  - If a charitable organization sells a donated motor vehicle, boat or airplane whose claimed value exceeds $500, the donor’s deduction is limited to the gross proceeds from the sale.
  - Donors had been able to deduct the vehicle’s fair market (Blue Book) value.
MOTOR VEHICLES, BOATS & AIRPLANES

- Sell the vehicle and use the proceeds
  - The charitable organization must provide an acknowledgement to the donor within 30 days of the sale stating the amount of gross proceeds.
  - File IRS Form 1098-C, Contributions of Motor Vehicles, Boats, and Airplanes, with the IRS, and provide a copy of the 1098-C (or your own acknowledgment that contains the required information) to the donor.
  - All the usual requirements for the written acknowledgment also apply.

MOTOR VEHICLES, BOATS & AIRPLANES

- Uses or materially improves the vehicles
  - If, instead, the charitable organization significantly uses or materially improves the vehicles, the donor may, generally, deduct the vehicle’s market value.
  - The charity must certify this intended use and duration and provide an acknowledgement to the donor within 30 days of the contribution.
• Uses or materially improves the vehicles
  – File IRS Form 1098-C, Contributions of Motor Vehicles, Boats, and Airplanes, with the IRS, and provide a copy of the 1098-C (or your own acknowledgment that contains the required information) to the donor
  – All the usual requirements for the written acknowledgment also apply (disclosure of any goods or services provided to the donor is return, etc.).
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

MOTOR VEHICLES, BOATS & AIRPLANES

- Form 1098-C includes all components of a written acknowledgment
  - Statement about goods or services provided, etc.

<table>
<thead>
<tr>
<th>Question</th>
<th>Option 1</th>
<th>Option 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Did you provide goods or services in exchange for the vehicle?</td>
<td>Yes</td>
<td>No</td>
</tr>
<tr>
<td>Value of goods and services provided in exchange for the vehicle</td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>Describe the goods and services, if any, that were provided. If this box is checked, donee certifies that the goods and services consisted solely of intangible religious benefits</td>
<td>✔</td>
<td></td>
</tr>
</tbody>
</table>

MOTOR VEHICLES, BOATS & AIRPLANES

- Motor Vehicles, Boats, and Airplanes
  - Includes information not generally required on receipts
    - Date of contribution
    - Donee’s federal identification number
    - Donor’s identification number (Social Security Number, for individuals)
### MOTOR VEHICLES, BOATS & AIRPLANES

**Consequences if donor does not provide identification number**
- 1098-C not filed with IRS
- Donor provided only with Copy C, not Copy B
- Checkbox that deduction is limited to $500
MOTOR VEHICLES, BOATS & AIRPLANES

• Required to provide “Contemporaneous Written Acknowledgment”
  – If a donor contributes a qualified vehicle to you with a claimed value of more than $500, you must furnish a contemporaneous written acknowledgment of the contribution to the donor section 170(f)(12) containing the same information shown on Form 1098-C. Otherwise, the donor cannot claim a deduction of more than $500 for that vehicle. Copy B of Form 1098-C may be used for this purpose.
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

MOTOR VEHICLES, BOATS & AIRPLANES

- Specific penalties for providing a “fraudulent acknowledgment” or failing to provide an acknowledgment meeting the specified requirements
  - Furnishes a false or fraudulent acknowledgment or
  - Fails to furnish an acknowledgment in the manner, at the time, and showing the information required by section 170(f)(12).

- MOTOR VEHICLES, BOATS & AIRPLANES

- Specific penalties for providing a “fraudulent acknowledgment” or failing to provide an acknowledgment meeting the specified requirements
  - The penalty for an acknowledgment relating to a qualified vehicle for which box 4a must be checked is the larger of:
    - The gross proceeds from the sale, or
    - The sales price stated in the acknowledgment multiplied by 35%
MOTOR VEHICLES, 
BOATS & AIRPLANES

• Specific penalties for providing a “fraudulent acknowledgment” or failing to provide an acknowledgment meeting the specified requirements
  – The penalty for an acknowledgment relating to a qualified vehicle for which box 5a or 5b must be checked is the larger of:
    • $5,000, or
    • The claimed value of the vehicle multiplied by 35%

MOTOR VEHICLES, 
BOATS & AIRPLANES

• IRS optically scans this form
  – Tolerances for optical scanning are very tight
  – Can’t download and print the copy of IRS Form 1098-C that gets filed with the IRS
  – Need to order the physical form from the IRS
  – OK to use the downloaded file to send the donor
IRS FORMS 8283 AND 8282

THE FORMS THEMSELVES

- Form 8283: Noncash Charitable Contributions
  - Donors use Form 8283 to report information about noncash charitable contributions.
- Form 8282: Donee Information Return
  - Donee organizations use Form 8282 to report information to the IRS about dispositions of certain charitable deduction property made within 3 years after the donor contributed the property.
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

**FORM 8283**

- Individual donors must file Form 8283 to deduct non-cash gifts if the amount is more than $500
- C Corporations must file Form 8283 to deduct non-cash gifts if the amount is more than $500

**CHAT**

Who is responsible for Forms 8282 and 8283 at your institution?
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

FORM 8283

- Two sections
  - Section A
    - For deductions of $5,000 or less
    - Also for deductions of publicly-traded securities, regardless of amount
    - Section A is completed entirely by the donor
      - Donee does not even need to see the 8283 for non-cash gifts listed in Section A

FORM 8283

- Two sections
  - Section B
    - For deductions of more than $5,000, except for deductions of publicly-traded securities
    - Section B has four parts:
      - Part I: Information on Donated Property
      - Part II: Taxpayer (Donor) Statement
      - Part III: Declaration of Appraiser
      - Part IV: Donee Acknowledgment
    - Donee Acknowledgement is the only section that applies to the donee (!)
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

FORM 8283

- Part IV: Donee Acknowledgment
  - Donee certifies (only)
    - That is a qualified organization
    - That it received the property described in Section B, Part I
    - The date on which it received that property
    - That it will file Form 8282 if it “sells, exchanges, or otherwise disposes of the property within three years” after receipt
    - Whether it intends to use the property for an unrelated use

FORM 8283

- Part IV: Donee Acknowledgment
  - Donee explicitly does not certify the appraisal!
    - “This acknowledgment does not represent agreement with the claimed fair market value.”
    - There is no requirement that the appraisal must even be completed when the donee acknowledgment is signed.
• Part IV: Donee Acknowledgment
  – The Donee Acknowledgment asks whether the property will be used for an unrelated use: “Does the organization intend to use the property for an unrelated use? (Yes/No)”
  – Note that the question is not about a related use
  – If you have any plan to use the property for an unrelated use (for example, selling it, possibly after some interval), the answer is “Yes.”
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

FORM 8283

• Donor responsibilities
  – Determine whether to file Form 8283 Section B
  – Complete Section B Part I
  – Present Form 8283 to donee for signature
  – Obtain qualified appraisal
  – File Form 8283 with tax return

FORM 8283

• Donee responsibilities
  – Receive Form 8283 from donor
  – Verify information in Section B Part I
  – Complete and Sign Section B Part IV
  – Return Form 8283 to donor
  – File Form 8282 if it disposes of the property within 3 years after its receipt
### FORM 8282

- Filing Form 8282 is the **donee's** responsibility
- Donee Organization files Form 8282 if
  - Donor presented the donee with Form 8283 for signature, **and**
  - Donee it sells, exchanges, or otherwise disposes of the property within 3 years after receipt

### FORM 8282

- Identifies the charitable organization
- Identifies the original donor and donee
- Identifies any intermediate donees
- Provides information about the property
  - Description
  - Date received
  - Date sold, exchanged, or otherwise disposed of
  - Amount received upon disposition
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

FORM 8282

- Now also requires that the charity provide:
  - A description of its use of the property
  - A statement whether this use was related to its exempt purpose
    - If so, a description of how the organization’s use of the property furthered its exempt purpose or function
    - If not, a description of the organization’s intended use (if any) at the time of contribution
  - A certification under penalty of perjury if
    - The use of the property furthered the exempt purpose, or
    - The intended use of the property was related to the exempt purpose and it became impossible or infeasible to implement

FORM 8282

<table>
<thead>
<tr>
<th>1. Description of the donated property sold, exchanged, or otherwise disposed of and how the organization used the property. If you need more space, attach a separate statement.</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td></td>
<td></td>
</tr>
<tr>
<td>B</td>
<td></td>
<td></td>
</tr>
<tr>
<td>C</td>
<td></td>
<td></td>
</tr>
<tr>
<td>D</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

[Form 8282 Image]

Academic Impressions
• Pension Protection Act of 2006
  – Adjustment of Tax Benefit
    • If the donee disposes of the property within the tax year in which the contribution was made, the deduction is limited to basis
    • If the donee disposes of the property in a subsequent year within 3 years of the contribution, the donor must include as ordinary income the amount by which the deduction exceeded the basis
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

**FORM 8282**

- Pension Protection Act of 2006
  - No adjustment of the tax benefit if an officer of the donee provides a written statement under penalties of perjury
  - Certifying that the use of the property was related to the donee’s exempt purpose and describing how the property was used and how the use furthered the exempt purpose, or
  - Stating the intended use of the property by the donee at the time of contribution and certifying that such use has become impossible or infeasible to implement.

**FORM 8282**

- Filing
  - The donee files Form 8282 directly with the IRS
  - The donee sends a copy of Form 8282 to the donor
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

**FORM 8282**

- Pension Protection Act of 2006
  - Certification must be provided to the IRS with a copy to the taxpayer
  - $10,000 penalty for any person who identifies property as related use property knowing that the property is not intended for such a use

- IRS Form 8282 reporting requirements
  - Extended to 3 years
  - Require that the charity provide
    - A description of its use of the property
    - A statement whether this use was related to its exempt purpose
    - If applicable, a certification of any such use
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

ACCEPTANCE GENERALLY

THINK ABOUT IT

- Why would you not want to accept a gift?
  - It doesn’t support for your organization’s mission.
  - It requires you to accept restrictions or obligations that aren’t in your organization’s best interest.
  - It comes with encumbrances such as debt, liability for toxic clean-up, etc.
  - It would cost more to accept than it’s worth.
  - It would be bad for community relations.
WHO FINALLY DECIDES?

- Who has the final authority to accept or reject a gift for your institution?
  - Gift Acceptance Committee?
  - President?
  - Vice President of Development?
  - Vice President of Finance?
  - A.V.P./Director of Advancement Services?
  - Director of Development?

WHO FINALLY DECIDES?

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SHOULD I ACCEPT THIS? (AND WHAT IF I DON’T?)

- Whether you ultimately accept a gift or not, be aware of possible issues
  - Donor-relations issues
  - Internal political issues
  - Public relations issues
  - Ethical issues
  - Counting issues
- It’s good to have a clear arbiter of the final decisions!

SO WHAT’S THE RIGHT ANSWER?

- We’re going to look at a number of examples.
  - The example are based on real-life cases.
  - The case studies may recommend accepting, or not accepting, a particular gift.
   - To a considerable extent, accepting or not accepting a gift depends on the specific situation.
   - In some of these cases, the opposite decision might also have been defensible!
   - The important thing is to make sure that you understand the issues, and the consequences of the decision.
ACCEPTANCE CASE STUDIES

THE GIFT HORSE

• The director of student recreation services calls to tell you that he accepted a gift of a show horse.
• Can he keep it?
• Do you have a use for a horse, i.e., can you use it to further the mission of the institution?
  – Student recreation services uses horses for riding lessons, and for the student riding club.
• Is this horse in good health, and suitable for those purposes?
  – Yes.
• Then, yes, he can keep it
  – But he should have asked before accepting it!

• One horse led to five more!
• The following message was apparently posted on barn doors across the northeast side:
  – “For a new home call Linda, 315-New-Home”
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

THE GIFT HORSE

- Text from acknowledgment:
  - “On behalf of Syracuse University, thank you so much for donating George, a 16.2 hand, 17-year old Swedish Warmblood gelding to us to be used by the S.U. Riding Club for riding lessons. Given George’s current age and his years of work, your letter and appraisal state that he is valued at $5,000. Please note that Federal income tax law requires us to state that no goods or services were provided to you in consideration for your gift.”

THE GIFT HORSE

- Think about other issues that might arise.
  - How is the horse going to get to your campus?
  - Are there stewardship issues?
  - What happens to George when he’s too old to work for student recreation?
- Thanks to Linda Bennett, formerly of Syracuse University, for this example!
THE NEW PROGRAM

• William S., an alum, wants to make what would be the single largest gift in the history of the college, to be used to establish a music conservatory as a program of the college.
• Do you accept the gift?

THE NEW PROGRAM

• Is the gift large enough to fully fund the proposed program?
  – Income from the endowment will fund most of the program, and the college anticipates that it will be able to obtain additional funding for the rest.
  – Meanwhile, the college is willing to fund the remaining expenses out of general funds.
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

THE NEW PROGRAM

• Are the donor’s other terms and conditions acceptable to the college?
  – The college and the donor are able to come to a mutually acceptable agreement related to governance of the program, hiring of faculty and administrators, criteria for admission, relation to existing departments and programs, and all other relevant matters.

• Accept the gift!

THE NEW PROGRAM II

• Mary R., an alum, wants to endow a professorship, and an associated program, at your university. The university would agree to:
  – Hire a senior professor for the position.
  – Provide a research assistant to the professor.
  – Host an annual conference in the academic specialty.

• Do you accept the gift?
THE NEW PROGRAM II

• Is the proposed specialization appropriate?
  – The specialization is within a discipline that is well-established at the university, and is an important new sub-discipline.

• Is the gift large enough to fully fund the program?
  – At the university’s endowment take-out rate, the income would not fund the full salary of a senior faculty member, let alone benefits, the research assistant, or the program.

THE NEW PROGRAM II

• Are the donor’s other terms and conditions acceptable to the college?
  – Mary’s gift is conditional upon the university agreeing to her selection of the first faculty member who will hold the chair. She initially attempted to establish this chair at another university, which would not agree to her terms.

• You may want to try to negotiate more acceptable terms before accepting the gift!
- THE HISTORIC BUILDING

- David and Jane E., local residents, own the historic building in which your college was founded. They would like to give the building to the college.
  - The building is located some distance from campus.
  - The donors want the building to be preserved as they have furnished it, as a historical exhibit, and are particular about the uses to which it may be put.
  - The donors are unable to establish an endowment for the support and maintenance of the building.

- Do you accept the gift?

- THE HISTORIC BUILDING

- Do you have a use for the building?
  - Your organization’s mission is higher education, not historic preservation.
  - Especially given the building’s location off-campus, you are not able to identify any use for it that would be acceptable to the owners.
THE HISTORIC BUILDING

- Is there a source of additional funding?
  - You are not able to identify donors outside your normal donor pool who you could engage for this project.
- Are the expenses that you will incur the best use of college funds?
  - You have a long list of priority initiatives.
- Suggest that the donor work with the local historic preservation group instead.

THE RETREAT CENTER

- The Millers, supporters of your organization, would like to donate their farm for your organization to run as a retreat center.
  - The 50-acre farm is in a beautiful location, overlooking the Susquehanna River. It’s a two-hour drive from your campus.
  - The donors are unable to fund the development of the retreat center, or endow its ongoing support.
- Do you accept the gift?
The Retreat Center

- Do you need a retreat center?
  - Your organization is interested in running retreats as part of a new program.
- Is this location suitable for your program?
  - Although this location is beautiful, its distance from your primary location is unsuitable for your program.
- Nicely suggest that the donor investigate other possible partners.

The undeveloped property

- J.W., an individual with whom you have no prior relationship, contacts you about donating an undeveloped property as a charitable contribution.
  - The donor is perfectly happy for you to sell the property and use the proceeds for the general purposes of your organization.
- Do you accept the gift?
**THE UNDEVELOPED PROPERTY**

- Does the donor own clear title to the property?
  - Yes. The donor owns the property outright. There is no debt, and there are no liens, associated with the property.
- What is the property worth?
  - The donor does not have a recent appraisal, and does not want to pay for one.

- Are there other issues with the property?
  - The property was contaminated with toxic waste when it was used as a landfill by a now defunct manufacturer! It has not been cleaned up.
- Run away!
  - Run far away!
  - Run far away very fast!
  - *(Aren’t you glad you checked this out before accepting the gift?)*
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

**THE TIMESHARE**

- Connie, a member of your staff, would like to donate her time share in beautiful Palm Desert to your organization.
- **Do you accept the gift?**

**THE TIMESHARE**

- Do you need a time share?
  – Your organization really has no use for it.
- Is there a market for selling it?
  – Connie has been trying to sell it, unsuccessfully, for years!
- Are there associated costs?
  – Connie would like you to assume the mortgage, and there are significant annual fees.
- Decline the gift (courteously!)
**THE TIMESHARE**

- Sometimes you can be creative...
  - One organization accepted a time share and awarded its use each year to an outstanding staff member as a prize!
  - The time share was paid for in full.
  - The organization was willing to absorb the associated annual fees, etc.
  - The winning staff members loved it!

**THE MUTUAL FUND SHARES**

- Pat H., an alumna, calls you up. She would like to make a $1,500 gift to the Annual Fund using appreciated assets, which are mutual fund shares in the Z. Rowe Price Excellent Growth Fund.
  - If she sells the shares and gives you the cash, she has to pay tax on her capital gains, so she wants to transfer the shares to the College.
  - However, the only way that the ZRP company allows such transfers is if the College has an account in that specific fund. The College does not have an account in that fund.
- Do you accept the gift?
THE MUTUAL FUND SHARES

Setting up an account for the College at a mutual fund company may not be trivial.
- Account creation may require:
  • Completion of lengthy forms
  • Signatures of corporate officers
  • Copy of articles of incorporation
  • Weeks to process
- Setting up an account may be more complicated because of regulations to prevent funding of terrorist organizations.

THE MUTUAL FUND SHARES

- Some funds have provisions to transfer shares using a regular brokerage account.
  - Others don’t!
- The donor may have other appreciated assets that would be easier to transfer.
  - Or the donor may not!
- Ultimately, if the transfer requires you to have an account, and you can’t set one up, you can’t accept the gift.
THE CLOSELY-HELD SECURITIES

• D.B., a constituent of your organization, sends you a certificate for 100 shares of Sage Controls stock. Sage Controls is a closely-held private company, whose shares are not traded on any securities market.

• Do you accept the gift?

THE CLOSELY-HELD SECURITIES

• Can you determine a value for the gift?
  – The donor offers to send a recent appraisal from a qualified independent appraiser.

• Will you be able to sell the shares?
  – The donor suggests that you contact the company, which, you discover, would be willing to buy the shares from you at the appraised price.
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

THE CLOSELY-HELD SECURITIES

- What do you know about the company?
  - The company was founded in 1966. It has an excellent reputation, and continues under the control of its founder. It has standing contracts with several national manufacturers.
- Has the donor made similar gifts before?
  - The donor has made similar gifts several times over the past decade, without any complications.
- Accept the gift!

THE CLOSELY-HELD SECURITIES

- Other things to watch for:
  - If the donor requires that you sell the shares back to him at a certain future time, that may negate any gift, or cause other problems.
  - There are scams where gifts to non-profits, assigned a value based on little evidence, are used to establish what proves to be an inflated value for later transactions!
THE FOREIGN CURRENCY

- Sir Sidney G., the grandparent of a student enrolled in your school, sends you a check for £100 as a contribution.
- Do you accept the gift?

THE FOREIGN CURRENCY

- You investigate the conversion of this gift into dollars, and discover:
  - At the current conversion rate, this gift is worth $157.57.
  - However, the company that your bank uses for the conversion will charge a fee of $50.23.
  - Your bank will charge additional fees and postage of $37.
  - The net proceeds for the school will be just $70.34.
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

**THE FOREIGN CURRENCY**

- This may not be the most cost-effective way for the donor to make the gift.
  - A credit card charge may result in lower fees, and a greater benefit to the institution.
  - If the amount had been a little smaller, you might actually have lost money on the gift!
- Since there’s a net benefit, accept the gift!
  - However, you may want to contact the donor, and suggest other arrangements for the future.

**THE CULTURAL ARTIFACTS**

- Larry K., a local resident, tells that his father has a collection of cultural artifacts from New Guinea.
  - It includes 300 distinctive pieces, ranging from giant mud masks and carved drums to feather headdresses.
  - The average value of the items is $800 to $1,000 each.
  - The items are 40 to 50 years old.
  - The items are valuable primarily as cultural artifacts, not as works of art.
THE CULTURAL ARTIFACTS

- Larry’s father would like to donate his collection to the college.
  - He would like the college to hold the collection for at least 3 years
  - After 3 years, he would like the college to sell the collection and use the proceeds to support the renovation of the campus performing arts center.

- Do you accept the gift?

THE CULTURAL ARTIFACTS

- Can you use the collection to support your mission?
  - Yes. An anthropologist on the faculty is a Borneo specialist, and would be able to use these items in his research and teaching.

- Can you store and care for the collection?
  - Yes. The new special collections facility is an appropriate location, and there is lots of space.
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

THE CULTURAL ARTIFACTS

• In three years, would you be able to sell the collection?
  – A representative from the Australian office of a well-known auction house viewed the collection and is quite interested in it.

• So what’s this requirement to hold the collection for three years about?
  – Here we might have a problem - these artifacts constitute tangible personal property. Therefore, the deduction is limited if the recipient uses them for an unrelated purpose.
  – Use for teaching, research, exhibiting, etc, is a related purpose, but sale and use of the proceeds is an unrelated purpose.
THE CULTURAL ARTIFACTS

- To deduct a gift of this size, the donor would need for the college to complete IRS form 8283.
- For gifts of tangible personal property, the college would have to indicate on the 8283 whether it intends to use the property for an unrelated use.

THE CULTURAL ARTIFACTS

- If the college sells or otherwise disposes of contributed property for which it completed an 8283 within a certain period, it must file IRS form 8282 to report the sale.
  - Under the Pension Protection Act, the donor would have to recapture the larger deduction as income.
THE CULTURAL ARTIFACTS

- The college is only required to file an 8282 if it sells or otherwise disposes of the contributed property within 3 years of the date of receipt.
  - However, the Donee Acknowledgment on the 8283 does not limit the question to a certain time period: “Does the organization intend to use the property for an unrelated use?”

THE CULTURAL ARTIFACTS

- So, do you accept the gift?
- Tell the donor that you would be happy to accept the gift, but, since the college does intend to sell the collection after an interim period, you will report to the IRS on the 8283 that college intends to use the gift for an unrelated use.
- (Unfortunately, the gift will probably go away.)
THE BOAT

• Dennis C. contacts your organization about donating a boat. He would like you to use the boat for 3 years in your recreation program, after which he would like you to sell the boat and use the proceeds to support another program.
• OK, so you see where this is going....

THE EXPENSES

• As part of your Capital Campaign, you are holding a series of Campaign Kick-off events around the country. You don’t schedule an event for Naples, Florida. One of you donors who lives in Naples thinks that you should hold a kick-off event there. She offers to make all the arrangements, and pay the expenses for the facility and the dinner.
• Do you accept the gift?
THE EXPENSES

• Would an event in Naples support your mission?
  – You do have a number of affluent constituents in that area. You considered holding an event there, but other locations were higher priorities.

  Can you accommodate another event?
  – The key volunteer leaders and staff are all available on the proposed date, and willing to attend.

THE EXPENSES

• Isn’t this a gift of services?
  – The donor in this case isn’t a person or corporation providing any services!
  – Instead, the donor is paying expenses on behalf of your organization.
THE EXPENSES

• Shouldn’t the organization pay the bills, and have the donor reimburse you?
  – Many organizations prefer to have the donor reimburse the organization. The documentation is easier that way. However, the gift as proposed is a perfectly legitimate in-kind gift.
  – To record such a gift, you need to document:
    • The amount of the expense paid on your behalf
    • That your donor paid the expense

THE GIFT OF TICKETS

• Gerry R. sponsors a table at your organization’s fund-raising dinner/dance extravaganza. Later, the donor has two extra tickets, and want to return them as a gift to the organization.
• Do you accept the gift?
  – Is this a gift at all?
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

THE GIFT OF TICKETS

• Does this gift support your mission?
  – If you are able to re-sell the tickets (perhaps the event was already sold out?) or use them otherwise to support your mission, this may be an in-kind gift. Otherwise, it’s not!
  – The same principle applies to other donations of tickets (for example, tickets to a local theatrical or sporting event).
    • If you use the tickets, or resell them, to support your mission, it’s a gift.
    • If you don’t use them, it’s not a gift.

AND SO ON!
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

LEARNING OUTCOME

RESOURCE

- IRS Forms and Publications
  - Publication 526, Charitable Contributions
  - Publication 1771, Charitable Contributions - Substantiation and Disclosure Requirements
  - Publication 561, Determining the Value of Donated Property
  - Form 1098-C, Contributions of Motor Vehicles, Boats, and Airplanes
    - Instructions for Form 1098-C

RESOURCE

- IRS Forms and Publications
  - Form 8283, Noncash Charitable Contributions
  - Instructions for Form 8283
  - Form 8282, Donee Information Return (Sale, Exchange, or Other Disposition of Donated Property)
  - Form 990 & Form 990-EZ, Return of Organization Exempt From Income Tax
    - Instructions for Form 990 and Form 990-EZ
Meeting the Challenges of Accepting and Receipting Gifts (Session 2 of 2)

QUESTIONS

EVALUATION

Thank you!
Please remember to complete the event evaluation. Your comments will help us continually improve the quality of our programs.