Gift Acceptance Policy

Hendricks County Arts Council (HCAC), a nonprofit organization organized under the laws of the State of Indiana, encourages the solicitation and acceptance of gifts to HCAC for purposes that will help the HCAC to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to HCAC for the benefit of any of its programs.

The mission of HCAC is to engage the community through awareness of and participation in the arts that are taking place in Hendricks County, Indiana.

1. **Purpose of Policies and Guidelines**The board of directors of HCAC and its staff solicit current and deferred gifts from individuals, corporations and foundations to secure the future growth and missions of HCAC. It is the purpose of these policies and guidelines to govern the acceptance of gifts by HCAC and to provide guidance to prospective donors and their advisors when making gifts to HCAC. The provisions of these policies shall apply to all gifts received by HCAC for any of its programs or services.
2. **Use of Legal Counsel**HCAC shall seek the advice of legal counsel in matters relating to acceptance of gifts where appropriate. Review by counsel is recommended for:
* Review of closely held stock transfers that are subject to restrictions or buy-sell agreements
* Review of documents naming HCAC as trustee
* Review of all gifts involving contracts, such as bargain sales or other documents requiring HCAC to assume an obligation
* Review of all transactions with potential conflict of interest that many invoke IRS sanctions
* Other instances in which use of counsel is deemed appropriate by the gift acceptance committee
1. **Conflict of Interest**All prospective donors shall be strongly urged to seek the assistance of personal legal and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. HCAC will comply with the Model Standards of Practice for the Charitable Gift Planner promulgated by the National Committee on Planned Giving, shown as an appendix to this document.
2. **Restrictions on Gifts**HCAC will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. HCAC will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter, gifts that are too difficult to administer or gifts that are for purposes outside the mission. HCAC shall make all final decisions on the restrictive nature of a gift, and its acceptance or refusal.
3. **The Gift Acceptance Committee**The gift acceptance committee shall consist of:
	* The president of Hendricks County Arts Council
	* The treasurer of Hendricks County Arts Council
	* Two members of the fundraising committee, appointed by the president

The gift acceptance committee is charged with the responsibility of reviewing all gifts made to Hendricks County Arts Council, properly screening and accepting those gifts, and making recommendations to the board on gift acceptance issues where appropriate.

**6. Types of Gifts** The following gifts are acceptable:

* Cash
* Tangible personal property
* Securities
* Real estate
* Remainder interests in property
* Oil, gas and mineral Interests
* Bargain sales
* Life insurance
* Charitable gift annuities
* Charitable remainder trusts
* Charitable lead trusts
* Retirement plan beneficiary designations
* Bequests
* Life insurance beneficiary designations

The following criteria govern the acceptance of each gift form:

* **Cash:** Cash is acceptable in any form. Checks shall be made payable to HCAC and shall be delivered to the president @ PO Box 315 Danville, Indiana 46122.
* **Tangible personal property:** All other gifts of tangible personal property shall be examined in light of the following criteria;
	+ Does the property fulfill the mission of HCAC?
	+ Is the property marketable?
	+ Are there any undue restrictions on the use, display or sale of the property?
	+ Are there any carrying costs for the property?

The gift acceptance committee of HCAC shall make the final determination on the acceptance of other tangible property gifts.

* **Securities:** HCAC can accept both publicly traded securities and closely held securities.
* **Publicly traded securities:** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor’s signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the investment committee. In some cases applicable securities laws may restrict marketable securities; in such instances the gift acceptance committee of HCAC shall make the final determination on the acceptance of the restricted securities.
* **Closely held securities:** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the gift acceptance committee of HCAC. However, gifts must be reviewed prior to acceptance to determine that:
	+ There are no restrictions on the security that would prevent HCAC from ultimately converting those assets to cash
	+ The security is marketable
	+ The security will not generate any undesirable tax consequences for HCAC.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be obtained before making a final decision on acceptance of the gift. The gift acceptance committee of HCAC and legal counsel shall make the final determination on the acceptance of the closely held securities where necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

* + - **Real estate:** Gifts of real estate may include developed property, undeveloped property or gifts subject to a prior life interest. Prior to acceptance of real estate, HCAC shall require an initial environmental review of the property to insure that the property is not contaminated with environmental damage. Environmental inspection forms are attached as an appendix to this document. In the event that the initial inspection reveals a potential problem, HCAC shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall generally be at the expense of the donor.

		Where appropriate, a title binder shall be obtained by HCAC prior to the acceptance of the real property gift. The cost of this title binder shall generally be an expense of the donor.

		Prior to acceptance of the real property, the gift shall be approved by the gift acceptance committee of HCAC and by its legal counsel. Criteria for acceptance of the property shall include:
	+ Is the property useful for the purposes of HCAC?
	+ Is the property marketable?
	+ Are there any restrictions, reservations, easements, or other limitations associated with property?
	+ Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
	+ Does the environmental audit reflect that the property is not damaged?

		- **Remainder interests in property:** HCAC will accept a remainder interest in personal residence, farm or vacation subject to the provisions of the above paragraph on real estate. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, HCAC may use the property or reduce it to cash. Where HCAC receives a gift of the remainder interest, expenses for maintenance, real estate taxes and any property indebtedness are to be paid by the donor or primary beneficiary.
		- **Oil, gas and mineral interest:** HCAC may accept oil and gas property interests, where appropriate. Prior to acceptance of an oil and gas interest the gift shall be approved by the gift acceptance committee, and if necessary, by the foundation’s legal counsel. Criteria for acceptance of the property shall include:
			* + Gifts of surface rights should have a value of $20,000 or greater.
				+ Gifts of oil, gas and mineral interests should generate at least $3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift)
				+ The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate
				+ If the interest is a working interest the organization should determine the impact on HCAC so that it may develop a plan to minimize that impact if accepted.
				+ The property should undergo an environmental review to ensure that HCAC has no current or potential exposure to environmental liability.

**Bargain sales:** HCAC will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of HCAC. All bargain sales must be reviewed and recommended by the gift acceptance committee and approved by the board of directors. Factors used in determining the appropriateness of the transaction include:

HCAC must obtain an independent appraisal substantiating the value of the property.

If HCAC assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.

HCAC must determine that it will use the property, or that there is a market for sale of the property, allowing sale within 12 months of receipt.

HCAC must calculate the costs to safeguard, insure and expense the property (including property tax, if applicable) during the holding period.

**Life insurance:** HCAC must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gifts are valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, HCAC will include the entire amount of the additional premium payment as a gift in the year that it is made.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, HCAC may:

Continue to pay the premiums

Convert the policy to paid up insurance

Surrender the policy for its current cash value

**Charitable gift annuities:** HCAC may offer charitable gift annuities. The minimum gift for funding shall be $10,000. HCAC president may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 55. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45. No more than two life income beneficiaries will be permitted for any gift annuity.

Annuity payments may be made on a quarterly, semiannual or annual schedule. HCAC president may approve exceptions to this payment schedule.

HCAC will not accept real estate, tangible personal property or any other illiquid asset in exchange for current charitable gift annuities. HCAC may accept real estate, tangible personal property or other illiquid assets in exchange for deferred gift annuities so long as there is as least a 5-year period before the commencement of the annuity payment date, the value of the property is reasonably certain and the president of HCAC approves the arrangement.

Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to HCAC’s general endowment funds or to such specific fund as designated by the donor.

**Charitable remainder trusts:** HCAC may accept designation as remainder beneficiary of the charitable remainder trust with the approval of the gift acceptance committee of HCAC. HCAC will not accept appointment as trustee of a charitable remainder trust.

**Charitable lead trusts:** HCAC may accept a designation as income beneficiary of a charitable lead trust. The board of HCAC will not accept an appointment as trustee of a charitable lead trust.

**Retirement plan beneficiary designation:** Donors and supporters of HCAC shall be encouraged to name HCAC as beneficiary of their retirement plans. Such designations shall not be recorded as gifts until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**Bequests:** Donors and supporters of HCAC shall be encouraged to make bequests to HCAC under their wills and trusts. Such bequests shall not be recorded as gifts to HCAC until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**Life insurance beneficiary designations:** Donors and supporters of HCAC shall be encouraged to name HCAC as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

**7. Miscellaneous Provisions**

* **Securing appraisals and legal fees for gifts to HCAC**: It shall be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to HCAC.
* **Valuation of gifts for development purposes:** HCAC shall record a gift received at its valuation for gift purposes on the date of gift.
* **Responsibility for IRS filings upon sale of gift items:** The gift acceptance committee of HCAC are responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within two years of receipt where the charitable deduction value of the item was $5,000 or greater. HCAC must file this form within 125 days of the date of sale or disposition of the asset. Form 8282 with Filing Instructions is attached as an appendix to these policies.
* Acknowledgement of all gifts made to HCAC and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the board of HCAC. IRS Publication 561 *Determining the Value of Donated Property* and IRS Publication 526 *Charitable Contributions* are to these policies as an Appendix.
1. **Changes to Policies**These policies and guidelines have been reviewed and accepted by the gift acceptance committee of HCAC. The gift acceptance committee of HCAC must approve any changes to or deviations from these policies.

Approved on the \_\_\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_, 20\_\_\_.

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President, Board of Directors, The Hendricks County Arts Council

**ATTACHMENTS**

1. [**Model Standards of Practice for the Charitable Gift Planner**](http://www.pppnet.org/pdf/modelstandards.pdf)
2. **Environmental Review Forms**
3. [**IRS Form 8282 and Instructions**](http://www.irs.gov/pub/irs-pdf/f8282.pdf)
4. [**IRS Publication 561: Determining the Value of Donated Property**](http://www.irs.gov/pub/irs-pdf/p561.pdf)
5. [**IRS Publication 526: Charitable Contributions**](http://www.irs.gov/pub/irs-pdf/p526.pdf)