Gift Policy Manual

Reason for Policy

This policy is designed to provide guidance to the VMI community and the general public to facilitate the gift giving process. The intent of this policy is to provide prospective donors with the greatest flexibility possible in formulating their gifts within governing policy and legal parameters while assuring that gifts obtained will support programs consistent with the mission of the Virginia Military Institute Foundation. The Foundation values and is responsible for maintaining its integrity and independence. No gift can be received which is overly restrictive in purpose or which sets limits on research that a faculty member of the Virginia Military Institute or student can perform. The Foundation will not accept gifts that involve discrimination based upon race, religion, gender, sexual orientation, age, national origin, color, disability, or any other basis prohibited by federal, state, and local laws.

Statement

- The Foundation seeks gifts from individuals, corporations, foundations and public agencies to fulfill its purpose of raising dollars for the support of the Institute. The Foundation can only accept gifts that will advance the core mission of the Foundation; we cannot accept gifts that do not meet this criterion.

- In accepting a gift, the Foundation also accepts a responsibility to the donor to steward the gift. This includes administering the gift properly, providing the donor with the appropriate financial information about the gift, and reporting to the donor about the use of the funds.

- Routine gifts, including cash, publicly traded securities, and tangible personal property are accepted through the offices of the Foundation’s Executive Vice President (EVP). Gifts in kind to be retained by the Foundation for use by the Institute may be accepted; however, proposed gifts that may expose the Foundation or The Institute to adverse publicity, require undue expenditures, or involve the Foundation in unexpected responsibilities because of their source, conditions, or purposes will be referred to the Board of Trustees (B)^ Property Management and Gifts Committee, whose members are appointed by the President of The VMI Foundation, Inc. This Committee is established to review gifts offered to the Foundation and to recommend whether to accept or decline these gifts. The final decision authority on gifts brought to the Gift Management Committee lies with the Foundation President and the BOT Executive Committee.
Various methods of gift giving can provide flexibility, security, and tax savings to donors. Unrestricted resources are essential to ensure the continued quality of the VMI academic programs and supporting services and to sustain and enhance The Institute’s financial strength and flexibility. Gifts accepted by the Foundation must not inhibit it from seeking gifts from other donors, be they similar or different, foreign or domestic. Finally, gifts must be designed and administered in a manner consistent with legal requirements.

**Procedures**

- Any gifts other than cash, publicly traded securities, gifts in kind to be retained for use by the Institute, or those valued at less than $10,000 must be brought to the PM&G Committee for review.

- Donations for certain purposes are not acceptable as charitable gifts to the Foundation. For example, gifts cannot be accepted as payment for tuition, fees, loans, room, board, or other student expenses. Gifts made with the condition that the proceeds will be spent by the Institute/the Foundation for the personal benefit of a named individual or individuals are generally not deductible as charitable contributions.

- Examples of common gift giving methods that are addressed in this policy manual include (1) pledges (2) bequests (3) life income arrangements (4) retirement plan designations (5) life insurance policies (6) charitable trusts and annuities (7) retained life estates and (8) charitable funds managed by others.

- Gift officers from the Foundation are available to provide personal assistance to donors seeking to understand and choose from the wide range of gift giving vehicles. These gift officers should also inform donors about specific protocols involved in the Foundation approval and acceptance of various gift vehicles. Donors should note that in certain cases, such as gifts of real estate or tangible personal property, the Foundation would generally look to the donor to bear certain expenses incurred in receiving or maintaining gifts. These expenses may include but are not limited to real estate appraisal fees, environmental audit expenses incurred by the Foundation as part of their due diligence, and on-going maintenance costs incurred for holding the asset prior to sale.

- While the Foundation’s gift officers strive to maintain a high level of familiarity with current tax laws and policies, neither they nor other Foundation officials are empowered to give legal or tax advice to donors. The information that these officers provide, and the information provided in this policy, are presented for discussion purposes only and should not be considered or used as legal advice. Donors and prospective donors should always confer with their own legal counsel, tax or financial planning advisors for opinions about the tax or other legal consequences of specific situations.
• The Foundation will seek the advice of legal counsel as needed in all matters pertaining to gifts of a complex nature. For example, counsel’s advice will be sought in the execution of trusts when the Foundation is a co-trustee, or with unusual specialized legal obligations, such as life interest in real estate. Planned giving agreements will generally follow the format of specimen agreements approved by legal counsel. Prospective donors are urged to seek their own counsel in matters relating to their planned gifts, tax circumstances, and estate planning.
DONOR BILL OF RIGHTS

The Virginia Military Institute Foundation, Inc., supports the Donor Bill of Rights as adopted by CASE, AAFRC, AHP, and AFT, which states that philanthropy is based on voluntary action for the common good.

Statement

To assure that philanthropy merits the respect and trust of the general public, and that donors and prospective donors can have full confidence in the Foundation’s causes they are asked to support, we declare that all donors have these rights:

1. To be informed of the Foundation’s mission, of the way the Foundation intends to use donated resources, and of its capacity to use donations effectively for their intended purposes.

2. To be informed of the identity of those serving on the Foundation’s governing board, and to expect the board to exercise prudent judgment in its stewardship responsibilities.

3. To have access to the Foundation’s most recent financial statements.

4. To be assured their gifts will be used for the purposes for which they were given.

5. To receive appropriate acknowledgment and recognition.

6. To be assured that information about their donations is handled with respect and with confidentiality to the extent provided by law.

7. To expect that all relationships with individuals representing the Foundation will be professional in nature.

8. To be informed whether those seeking donations are volunteers, employees of the Foundation, or hired solicitors.

9. To feel free to ask questions when making a donation and to receive prompt, truthful, and forthright answers.
Property Management and Gifts Committee

Reason for Policy

Gifts can have legal, tax, and financial risks for the Foundation. The Property Management and Gifts (PM&G) Committee is responsible for reviewing the implications of all such gifts made to the Foundation, whether such gifts are lifetime gifts or gifts from estates. Gifts excluded are gifts of cash, publicly-traded securities, and gifts in kind donated specifically to the Foundation for its use or by use of the Institute (other than gifts that may expose the Foundation or the Institute to adverse publicity, require undue expenditures, or involve the Foundation in unexpected responsibilities because of their source, conditions, or purposes), and (d) other tangible property valued at less than $10,000.

Statement

The PM&G Committee shall be appointed by the President of the Foundation and consist of at least three Trustees subject to approval by the Board of Trustees. The Vice President (Administration) of the Foundation. The Chief Financial Officer of the Foundation (CFO) will provide principal staff support for this committee. Other individuals (representing finance and risk functions) can be invited to attend on an ad-hoc basis depending on the issues being considered.

The PM&G Committee shall meet during the planned BOT meeting dates, or more often as necessary.

The PM&G Committee shall:

1) Review preliminary information on more complex gifts to determine whether the involved Development Officer should continue to pursue obtaining further documentation/information from the prospective donor.

2) Recommend the Foundation accept or decline any gifts, other than those specifically excluded above that could have financial, legal, or tax ramifications to the Foundation.

3) Review current issues and requirements associated with philanthropy to assure that gift policies are in compliance.

4) Review existing policies annually to assure that they continue to serve the needs of the Foundation and approve any necessary new policies.
(5) Review all proposed language for special purpose gifts and designated funds to assure that they comply with Foundation requirements.

(6) Advise on communication and training for persons throughout the Foundation responsible for accepting gifts.

**Procedures:**

- The staff VP/DO will submit information regarding a proposed gift to the committee chairperson through the CFO for inclusion at the next Committee meeting. This information shall be submitted at least one week in advance of the next regularly scheduled meeting. Special meetings may be called if time until the next scheduled meeting is an issue.

- The VP/DO will be responsible for collecting and bringing all relevant information to the Committee, as defined by the policies applicable to the particular gift that is needed to make an informed decision. The Committee will not take action on the gift until they have all information necessary.

- Minutes of meetings shall be kept by the committee chairman/woman or designee and copies will be provided for all members of the Committee. All actions taken on gifts shall be documented.

- The PM&G Committee Action Form (see attached) will be completed and the written decision of action shall be given to the person responsible for bringing the gift to the committee and communicating with the donor. A copy of this form will also be kept in the donor file.

- The Chief Executive Officer of the Foundation shall be responsible for acting on the recommendation of the Committee, as outlined in the PM&G Committee Action Form, and, if appropriate, bringing it to the Institute for review.
OUTRIGHT GIFTS

Cash Gifts

Reason for Policy

It is important that we offer our donors as many opportunities as possible to make gifts to the Foundation. It is also important that we have systems in place to expedite the processing of gifts from receipt to deposit so that we are maximizing the effectiveness of that gift to the Foundation through immediate deposit and therefore immediate accrual of interest on those funds.

Statement

Current cash gifts are those in which the donor does not retain any interest and are available for immediate use by the Foundation. Cash gifts can either by unrestricted and available for use at the Foundation’s discretion, or can be restricted for use in a particular program or purpose. Gifts can be made with cash or by check, electronic funds transfer, wire transfer, credit card, or payroll deduction.

Procedures

- Cash: If a donor delivers cash to an employee of the Foundation, the employee should deliver the cash without delay to the accounting department of the Foundation. As soon as possible, accounting shall issue a receipt for acknowledgment.

- Checks: Donors should be instructed to make all checks payable to the VMI Foundation, Inc. If the contribution is to be credited to a specific purpose or fund, the donor should note that on the check. For determining receipt for fiscal year and calendar year purposes, the postmark date will be used to determine the date of gift. All gifts must be postmarked no later than December 31st to count in the calendar year and June 30th to count in the current fiscal year.

- Electronic Funds Transfer (EFT): A donor can provide us authorization to debit his/her account on a monthly basis. This transfer will occur on the first of the month, or the first business day after if it falls on a weekend or holiday. The minimum amount of an acceptable monthly transfer is $20. The donor retains complete control, and has the right to change or cancel the authorization at any time. If a donor wishes to make contributions to the Foundation through this method, he/she should complete the Electronic Funds Transfer Form and return it to the Foundation.

- Wire transfer: Generally, a donor will use a wire transfer for gifts of larger sums of money, or to assure that a gift is completed within the calendar year for tax purposes. The donor must give the bank the instructions on the Wire Transfer
Information Form. This form should then be completed by the development officer and submitted to accounting.

- Credit card gifts: The Foundation can accept gifts charged on MasterCard, Visa, and American Express. The date of the gift is the date that the charge is processed, rather than the date on which the donor authorized the charge, either by phone or mail. Under Revenue Ruling 78-38, payment is not considered made, and therefore deductible by the donor, until the date the credit card transaction actually takes place regardless of when the donor’s pledge form and credit card information was mailed and postmarked. In order to process a credit card gift, we need the type of credit card, the card number, the expiration date, and the name exactly as it appears on the card, the dollar amount of the gift, and the designation of the gift. Any employee can take this information, complete the Credit Card Transaction Form, and forward it to accounting.

- Payroll deduction: VMI and VMI Agencies’ employees are eligible to make charitable contributions to the Foundation via payroll deduction. Any employee wishing to donate to the Foundation through payroll deduction should complete the Payroll Deduction Form and submit it to the Foundation. The amount authorized will be debited from the employees pay each pay period, and deposited into the Foundation account. Payroll deductions can be terminated at any time upon written request of the employee to the Foundation.
Publicly Traded Securities and Mutual Fund Gifts

Reason for Policy

There are a number of ways that a donor can transfer publicly traded securities to the Foundation. Mishandling of this process can cause tax problems for the donor and result in lost revenues to the Foundation. From a donor-relations standpoint, it is imperative that we handle these transactions in a professional manner and assist the donor in completing his/her gift.

Statement

Stock and bond gifts are the next most common form of giving after cash and cash equivalents. However, they are more complex both from the administrative standpoint and the donor standpoint. If the donor holds stocks or bonds in a brokerage or bank trust account, the most efficient way to transfer these assets to the Foundation is electronically through the DTC system. If the donor holds certificates in his/her own name, he/she will need to physically deliver those certificates, either through the mail system or personally, to the Foundation. Donors may also hold stocks on deposit with the issuing company in plans known as “dividend reinvestment plans (DRP’s).” Finally, many donors hold mutual fund shares. Each mutual fund company has its own procedures and forms for transferring securities from the donor to a charity.

In the case of a stock, bond, or mutual fund gift, the development officer should notify the donor of the following facts:

1. The Foundation sells all stock and bond gifts, with rare exception, as soon as practicable after receipt.

2. The donor will avoid the capital gains tax on appreciated securities that he/she contributes; however, the donor should not make a gift of securities in which he/she has a loss. The security should be sold so that the donor can take the loss for tax purposes, and the proceeds donated to the Foundation. In addition, if the donor has held the securities for less than one year, his/her deduction will be limited to the cost basis of the securities rather than the full fair market value of the gift.

3. Depending on the nature of the securities being transferred, the transfer process can take anywhere from one to three days in the case of an electronic transfer, to two weeks or more in the case of securities being held in mutual funds or on deposit with the company.

4. As required by IRS regulations, the gift value for a publicly traded or bond will be determined by taking the average of the high and the low trading price as of the day the gift is complete. If there were no sales on the date of the gift, the fair market value is determined by taking a weighted average
of the means between the highest and lowest sales on the nearest date before and after the valuation date. Mutual fund shares are valued for gift purposes at the net asset value (NAV) at the close of the day on which the gift was received. A gift is considered complete when the Foundation is in “control” of the asset.

5. It is imperative that the securities are transferred “as is,” and not sold within the donor’s account with the proceeds then being transferred to the Foundation. The latter will result in any capital gains being taxed to the donor.

This policy addresses publicly traded securities found on the major stock and bond exchanges. For stocks and bonds not publicly traded see Nontraditional Asset Gifts.

Procedures

A gift cannot be considered a charitable contribution until the donor relinquishes control of the asset. This occurs at different times depending on the nature of the transaction. To assure prompt and accurate credit of stock gifts, notify Accounting of all pending and received stock gifts. Should a gift be received in the Accounting department first, development officers should be notified.

Methods of transfer:

1. Electronic delivery: This is the most efficient and effective way to transfer stocks or bonds to the Foundation account. This transfer should be completed in one to three days. The transfer is complete when the stock/bond is posted to the Foundation account, which effectively gives the Foundation control of the asset. The development officer shall advise the donor that in order to assure prompt and accurate completion of the gift, we need to be given the name of security, number of shares, date of transfer, and designation of the gift. Scott & Stringfellow is our primary broker and stock shares can be transferred to the VMI Foundation, Inc. account at:

   DTC 702
   Scott & Stringfellow
   Account Number 858-63-093
   Broker: Charles Peebles
   Lexington, Virginia 24450
   Phone Number (800) 552-7757
   Name of Donor
   (Broker will need written instructions from the donor.)

2. Physical delivery:
   - **Donor personally delivers stock/bond certificate to the Foundation:**
A gift will be complete for federal income tax purposes on the day of delivery as long as we have received the certificate with the back signed or a separate stock power is delivered and signed exactly as the names appear on the certificate. The certificate and all documentation should be sent to the CFO immediately.

- **Donor mails stock/bond certificate to the Foundation through US Postal Service:**
  The donor should be advised to send the unendorsed certificate in one envelope and a stock power, signed exactly as the name appears, in a separate envelope. The gift will be complete on the date of the postmark of the later envelope. All documentation, including the original envelopes, should be sent immediately to the CFO.

- **Donor mails stock/bond certificate to the Foundation through UPS, Fed Ex, or other private carrier:**
  The donor should be advised to follow the same procedure as he/she would when using the US Postal Service. Although for donor tax purposes, the IRS regulations are unclear regarding gifts delivered by “private delivery services,” the Foundation will treat the crediting of these gifts similar to gifts delivered through the US Postal Service.

3. **Re-registration by agent into name of the VMI Foundation, Inc.:**

- **Donor instructs transfer agent of issuing corporation to transfer ownership of stock/bond to the Foundation:**
  A donor can mail a stock certificate directly to the transfer agent of the issuing corporation and request the agent to re-register the certificate in the name of the Foundation. For gift purposes, this gift will not be complete until the corporation completes the transfer on their books. There can be a significant time lag in the completion of this transfer (three to six weeks average) and therefore it is generally not an efficient way to make a transfer of stock.

- **Donor holds stock in a dividend reinvestment plan and instructs agent to transfer securities to us:**
  If a donor holds shares in a dividend reinvestment plan (DRP) and wants to use those shares to make a gift, he/she must notify the transfer agent to transfer these shares into an account in the name of the VMI Foundation, Inc. The CFO should be notified of the number of shares, name of company, and the transfer agent name and phone number so that he can open an account to receive this gift, track this gift, and redeem the shares as soon as possible to avoid loss in market value. The gift will be complete when the account is established and the shares have been transferred into the university account.
Donor holds mutual fund shares and instructs fund company to transfer shares to us:

Some mutual fund companies are considered closed-end companies and shares of those funds are transferable through the same process as stocks and bonds. However, most are open-end mutual fund companies and are subject to a different transfer process. Generally, mutual fund companies will require the donor to sign a form authorizing them to transfer the shares to the charity’s account, and then the charity is required to complete a form which establishes that account and also submit a Corporate Resolution which authorized individuals to act on behalf of the Charity. Some or all of the following may be needed: (1) Letter of instruction from the shareholder, (2) Letter of instruction from the Foundation, (3) Corporate resolution from the Foundation, and (4) a W-9 from the Foundation. (This form can be found at http://www.irs.ustreas.gov/forms_pubs/forms.html. It will be the policy of the Chief Financial Officer to immediately redeem the shares and close the account so each transaction is unique. The gift is not complete until an account is established in the Foundation’s name and the shares are transferred into that account.

4. Special Situations requiring additional documentation:

- **Certificate delivered is for more shares than donor wishes to gift:**
  If a donor is delivering a certificate for more shares than he/she wishes to gift, the donor should not sign the back of the certificate and should execute a stock power separate from the certificate and write in the number of shares that should be transferred to the Foundation. The CFO will then deliver this to the broker with instructions to re-register the remaining shares in the same names that appear on the certificate. For tax purposes, the gift will be complete when the latter of the certificate or the executed stock power is received by the Foundation in the case of physical delivery, or as of the date of the latest postmark if delivered by mail.

- **Certificate is registered in joint name with one donor deceased:**
  If a certificate is received where one donor is deceased, the transfer agent will require the joint owner or Executor to complete an Affidavit of Domicile and Debts. Although the transfer will be considered complete for tax purposes when the executed stock certificate or stock power is received, the Foundation cannot sell the stock until this Affidavit is delivered. To avoid unnecessary risk of loss, it is imperative that this form is completed and delivered to the CFO’s office as soon as possible after receipt of the other documentation.

- **Certificate is registered in name of trust:**
  When the securities given are registered in the name of a trust, the broker will require proof of existence of the trust. A trust arrangement is a confidential document, and donors and trustees are reluctant to provide entire documents. It will be necessary to obtain a copy of the first and signature pages of the
This information should be sent to the CFO.

Real Estate Gifts

Reason for Policy:

Real estate can be a very desirable gift to the Foundation; however, the acceptance of properties can carry with it risks and expenses. This policy has been established to assure that the expenses and risks associated with the acceptance of real estate are commensurate with the value of the ultimate gift to the Foundation.

Statement

- The Foundation will consider the acceptance of gifts of real property including both improved and unimproved land including but not limited to single and multiple family residences, condominiums, apartment buildings, rental property, commercial property, and farms. In order to accept a gift of a divided interest in multiple-owned property, a legal agreement must exist with the other owners regarding ultimate disposition of the property. Gifts of partial interests will not be accepted. The exception to this policy would be a retained life estate interest. Because of the time, expense, and market risk associated with obtaining gifts of real estate, the property must normally have an aggregate market value of at least $50,000.

- All real estate gifts must be brought to the PM&G Committee for review. If a scheduled meeting is not timely in the review of a potential gift, the Chair of the PM&G Committee may call for a special meeting or provide approval/rejection on behalf of the Committee. The Development Officer will work with the CFO to obtain all necessary information for review before a gift can be accepted. This information includes (1) a qualified independent appraisal of the property, (2) a Real Estate Acquisition Data Sheet which identified both environmental and financial risks associated with the property, (3) a Phase I Environmental Audit, (4) an Environmental Indemnification Agreement, and (5) a copy of the deed and other survey or relevant documents that the donor may share. Depending on the problems identified in the Phase I Environmental Audit, the Foundation may choose not to accept a property that requires additional examination. If the Phase I audit identifies problems with the gift property, the PM&G Committee will make a decision whether to recommend a Phase II Environmental Audit or recommend that the property not be accepted.

- It is the Foundation’s policy to dispose of all gifts of real estate that are not specifically identified for acquisition according to a Master Plan for the VMI Post or that cannot be used to further the educational purposes of VMI as expeditiously as possible. As required by law, any sale occurring within two years of the date of the gift will be reported to the IRS.
Any exceptions to this policy must be reviewed and approved by the PM&G Committee.

Procedures

1. The Development Officer shall work with the donor to obtain the following:

   - Current Appraisal: In order for the donor to take a charitable deduction, the IRS requires that the donor get an independent qualified appraisal of the property made no earlier than 60 days before the gift and no later than the day before the date on which the tax return claiming the deduction is filed (including extensions). Although the Foundation may want to conduct its own appraisal, we will request that the donor have an independent qualified appraisal done during the gift process and share that appraisal and the appraisal’s certification with us. The IRS requires that the appraisal be that of the donors, and therefore the Foundation cannot pay this expense for the donor without possibly jeopardizing the donor’s tax deduction.

   - Donor Disclosure Statement: In order to assure that the Foundation is not being subjected to environmental liabilities or other encumbrances, the donor must complete and sign the Real Estate Acquisition Data Sheet. This form incorporates an Environmental checklist with financial information about the property including mortgages, restrictions, covenants, liens, easements, and other encumbrances. In addition, upon review of the PM&G Committee the donor may be required to provide a separate agreement releasing the Foundation from any encumbrances on the property.

   - Title Information: The donor must provide a copy of the deed. Any other information including a recent survey of the property, title insurance policy, or an attorney’s title opinion would be helpful.

   - Mortgage information: Property subject to a mortgage can result in potential unrelated debt-financed income tax issues (UBIT) for the Foundation. IRS regulations will allow for a 10-year grace period during which the Foundation can either sell the property or pay off the debt without incurring UBTI if (1) the mortgage was placed on the property more than 5 years prior to the gift, (2) the property was held by the donor more than 5 years before the gift, and (3) the Foundation does not assume or agree to pay the indebtedness secured by the mortgage or makes any payment for the equity in the property.

   - Pending sales contracts: In general, the Foundation will not accept any property subject to an obligation to sell it since, in general, if a donor transfer property to a person who merely carries out a sale already arranged by the taxpayer, the proceeds are includible in the taxpayer’s income under the “assignment of income doctrine.”
2. Once the above information has been obtained from the donor, the Development Officer shall meet with the CFO to pursue the next steps. Because of the complex nature of real estate transactions, the donor should be advised that a timeframe of four to six weeks to complete the gift acceptance process is standard. To maximize the donor’s chances of receiving a charitable tax deduction for his/her gift in any current tax year, the donor should be encouraged to start this process by October 15th.

3. Environmental Audit: A Phase I Environmental Audit will be required. The CFO will make arrangements to conduct this audit. An environmental audit is done for the benefit of the Foundation and not the donor, and is therefore a Foundation expense. If environmental risks are identified, it will be necessary for the donor to rectify the problem at his/her expense before the Foundation will consider accepting the gift.

4. At the discretion of the CFO and the CEO, the Foundation may choose to have a Foundation employee view the property to assess potential risks before incurring the expenses associated with the acquisition of real estate.

5. Presentation to the PM&G Committee: The PM&G Committee will review the material presented by the CFO and the Development Officer and make a determination as to whether to recommend the acceptance or rejection of the proposed gift of real property. This material shall include a current appraisal, a completed Real Estate Data Acquisition Sheet, a copy of the deed, the findings from the Phase I Environmental Audit (and Phase II audit if deemed necessary) and any other relevant information that will assist the Committee in reaching a decision. If the gift is accepted, the Development Officer will communicate the Foundation’s decision to the donor in writing, including any conditions imposed by the PM&G Committee prior to acceptance. The gift will be completed by the execution and delivery of a warranty deed or other appropriate conveyance. If the property is transferred by the use of quit claim deed, title insurance must be acquired on the property in connection with acceptance. Upon acceptance of a gift, the PM&G Committee, through the CFO’s office, will designate an expense account associated with the gift pending disposition.

6. Once the deed is recorded, the CFO will ensure that appropriate property and casualty insurance coverage is put in place and the Development Officer will acknowledge the gift on behalf of the Foundation. The Foundation will not assign a value for the gift for the donor’s tax purposes, but will use the donor’s independent qualified appraisal to record a value. It is the donor’s responsibility to obtain and assign a value for the gift and obtain an independent qualified appraisal.
7. On-going administration and maintenance:

- Disposition of Property: Upon direction of the EVP, it is the responsibility of the CFO to dispose of all gifts of real property. If the CFO determines that it is advisable to sell any property for less than fair market value, he shall obtain the approval of the EVP. The EVP may, in his discretion, bring the decision to the BOT or Executive Committee for review and approval. The CFO will be responsible for filing Form 8282 with the IRS within 125 days of the date of disposition, and providing a copy for the donor and the donor’s Foundation file.

- Retention of Real Estate: If the PM&G Committee determines that it is in the best interests of the Foundation to retain for its own use a gift of real property, the PM&G Committee, through the CFO, will designate an expense account associated with the gift.

**Nontraditional Asset Gifts**

**Reason for Policy:**

Because of the infrequency and complexity of gifts of nontraditional assets, these gifts are complicated and can carry with them additional risks and costs. The purpose of this policy is to assure that the Foundation makes a prudent decision regarding the acceptance of these types of gifts, as well as provide guidance to donors and their advisors regarding the impact of the gift on the donor’s tax situation.

**Statement**

Unless otherwise noted, all gifts covered by this policy shall be reviewed, as necessary, by Foundation legal counsel, Foundation tax counsel, and the PM&G Committee. In addition, because of the limited marketability of nontraditional assets, the Foundation will not accept these assets to fund a gift annuity or pooled income fund.

**Closely Held Business Stock:** In order for the donor to avoid having the IRS view a gift of closely held stock as a taxable event, there must not be any formal agreement that the Foundation is required to redeem the stock upon receipt. Charities may own “S” corporation stock directly; however, charitable remainders trusts are not eligible S corporation shareholders.

**Section 144 Restricted Stock:** In order to sell these securities they must be held for at least 2 years from the date of acquisition. For the Foundation’s purposes, the holding period includes the time that the donor held the shares. There is a limit on how many shares can be sold. Because sales by the donor and the Foundation are aggregated, any sales by the donor will reduce the number of shares the Foundation may sell.

**General and Limited Partnership interests:** The Foundation must be sure that it will not be required to make contributions to the partnership in the future. If a gift of a family
limited partnership is being proposed, there should be a history of demonstrable charitable intent to assure that the gift if not merely a tax accommodation for the donor. A gift of a general partnership interest can expose the Foundation to liability for partnership debts, negligence on the part of other partners, hazardous waste cleanup costs, and other substantial expenses.

**Patents:** In order to receive a charitable deduction for the fair market value, the donor must assign his/her entire interest in the patent.

**Copyrights and Royalties (Non Mineral):** When a donor assigns a copyright as a gift to the Foundation, he/she must assign all of the rights with respect to that copyright in order to avoid the partial interest rule. Unless the donor gifts both the copyright and the work that it embodies, the gift will be considered a partial interest gift, and the donor will not be entitled to a charitable income tax deduction.

**Stock options:** There are many types of stock options, and not all are transferable. In addition, if stock options are granted to the Foundation, and the Foundation wishes to exercise those options, it will be necessary to identify cash resources to be used to exercise the options to purchase the stock.

**Tangible Personal Property (accepted with intent to sell):** Most property, including coins, gold bullion, livestock, farm equipment, inventory, automobiles, boats, books, manuscripts, and artwork, that are accepted by the Foundation with the intent to sell will result in a deduction for the donor which will be the lesser of the cost basis or the fair market value of the item. The donation of a manuscript or artwork will have different tax treatment for the donor depending on whether or not the donor was the creator of the work and how the donor acquired the work. Expenses of maintaining and selling assets such as boats and cars can be substantial.

**Gifts In Kind (Retained for VMI Foundation and Institute use):** Artwork, books and manuscripts, livestock and farm equipment, sports equipment, computer hardware and software are common types of gifts that are given to charities and retained for use. Related use rules need to be considered in the acceptance of these types of gifts. Unless it can be determined that the item being donated can be used by the Foundation to further its mission for the Virginia Military Institute, the donor’s deduction will be limited to the lesser of his/her cost basis or the fair market value of the property. Depending on the nature of the gift, there can be maintenance, storage, shipping, and insurance costs associated with it. An agreement must be established to cover these costs. Also, the gift should complement the strategic direction of the Institute.

**Gifts of limited practicality:**

- **Installment Notes:** A gift of an installment note to the Foundation will cause recognition of all unreported capital gain to be realized by the donor on the date of the gift. Therefore, this type of instrument may not be attractive as a gift vehicle for the donor.
• **Oil, Gas, and Mineral Interest:** Because the Foundation is not located in an active mineral interest area, and these interest are generally difficult to sell and unpredictable to income generation, a gift of this nature will not be considered unless it has an estimated value of at least $25,000. The donor will be required to provide a qualified independent appraisal in order to consider the acceptance of this type of gift.

• **Timeshare units:** Because of the limited value and market, and inherent expenses associated with timeshare units, we will not consider a gift of this nature unless it has an estimated market value of $50,000. The donor will be required to provide a qualified independent appraisal in order to consider the acceptance of this type of gift.

• **Real Estate Investment Trusts (REIT):** a REIT is generally not an acceptable gift because it most often produces unrelated business income or may be prohibited from being owned by a charity.

**Procedure:**

1. Gifts in kind, other than real estate, received for use by the Foundation and ultimately for use by the Institute, can be accepted by the EVP in consultation with VMI. However, if funds needed for acquisition or on-going maintenance costs are not incorporated into the operating budget, a Request of Payment of Expenses Form must be submitted to the PM&G Committee to identify a source of revenue to support the gift. The donor must provide a qualified independent appraisal of the property. Once the property is received, the donor should execute a Deed of Gift, and submit that document and the appraisal to the Development Officer.

2. All other gifts of nontraditional assets in excess of $10,000 of value must be presented to the PM&G Committee.

3. The Development Officer will get an opinion, if deemed necessary, from Foundation legal counsel regarding the ramifications of any of the above gifts before presenting them to the PM&G Committee.

4. The Development Officer will complete the Gift of Nontraditional Assets Evaluation Form and/or prepare a written summary of the gift proposal and submit that summary to the Gifts Committee with any other required documentation. At a minimum, the summary will include:
   a. a description of the asset and, if a business interest, the nature of the business;
   b. a qualified appraisal of the property;
   c. the purpose of the gift (e.g., to fund an endowed chair, a deferred gift, an unrestricted gift) and the department(s) program(s) or endowment(s) to benefit from the gift;
d. an estimate or appraisal of the Foundation’s interest in the property’s fair market value and marketability;

e. an estimate of the cost to the Foundation of evaluating the gift;

f. any potential for income and expenses, encumbrances, and carrying costs prior to disposition;

g. any potential Foundation/VMI use or proposed designation of the gift, including a projected time of sale;

h. any special arrangements requested by the donor concerning disposition – it should be noted that the donor should not engage in negotiations with potential buyers of the property;

i. a plan for funding any additional expenses incurred by the acceptance of the gift;

j. an evaluation of any exposure to unrelated business income tax liability;

k. any potential conflict of interest the Foundation/VMI might encounter in accepting the gift;

l. a plan for liquidating the asset.

5. In addition, the following types of gifts require specific documentation and have the following tax considerations:

**Closely Held Business Stock**

The value of non-publicly traded securities must be determined by a Qualified Independent Appraisal as defined in the Internal Revenue Code. Copies of any shareholder buy/sell agreements must be obtained. The Subchapter S/C Stock Checklist must be completed and brought to the PM&G Committee with other relevant materials for consideration. Tax treatment for charities accepting gifts of S stock is harsh. All income is treated as Unrelated Business Income, and therefore taxable to the Foundation.

**Section 144 Restricted Stock**

Even though restricted stock may be stock that is publicly traded and therefore has a readily available price, the restriction on the stock given by the donor clearly has an impact on the fair market value of the price. An appraisal, commissioned by the donor, is required for such stock since there will be no quotations for the securities as restricted. Since the Foundation is under the same restrictions as to sale as the donor, if the amount of stock given is less than the amount that donor may readily sell under the restrictions or rule 144, it may be possible for the donor to avoid an appraisal by agreeing, for a limited period after the gift is made, to refrain from selling shares that would prevent us from selling shares. This would in effect make the shares donated to us “unrestricted” and should avoid the need for an appraisal. In order to be able to sell the stock, the Development Officer will complete the Donor Checklist for Restricted Stock. This form should then be sent with a cover letter to our broker. After booking the gift, the form, along with the stock certificates, should be given to the CFO. The CFO will then prepare a “Sellers Representation letter” and send all materials to the Foundation broker. The SEC and any exchange on which the shares are traded must be notified of the sale.
**General and Limited Partnership Interests**

In order to limit the Foundation’s exposure to risk inherent in the partnership, there must be a valid partnership agreement in place. In addition, the Foundation must receive a proposed assignment of interest, and financial documentation sufficient to describe the assets of the partnership and their evaluation. The donor should provide the past three years tax returns for review. If the partnership business is unrelated to the exempt purpose of the Foundation, the income will be taxed to the Foundation as unrelated business income. If the partnership represents a tax shelter that has reached the “crossover” point where the taxable income is sufficiently greater than the cash distributions, the Foundation will be required to make a cash outlay to cover the tax liability. If the donor’s share or partnership liabilities exceed his/her tax basis, a charitable donation of his/her interest will result in a deemed distribution of cash and cause recognition of taxable income to him/her.

**Patents**

A copy of the patent documentation and the proposed assignment is needed. A patent is treated as capital asset even in the hands of the inventor. As long as the donor gives the Foundation his or her entire interest in the patent, any resulting gain is taxable as a long-term capital gain. Thus, the donor may contribute a patent to the Foundation and receive a deduction equal to the full fair market value of the patent. In addition, the payments to the Foundation under the patent are not subject to unrelated business income tax.

**Copyrights and Royalties (Non Mineral)**

A copy of the copyright agreement and the proposed assignment is needed. Under the rule that limits an income tax deduction for a gift of ordinary income property, an author or an artist will be unable to deduct more than the basis for a manuscript, work of art or the copyright. In order for the donor to avoid having to pay income tax on royalty payments, he/she must assign both the royalty payments and the copyright from which the royalty payments flow. Royalty payments are excluded from unrelated business taxable income for Foundation purposes.

**Stock Options**

Documentation relating to the donor’s rights to receive the options, whether or not they are transferable and the type of options that the donor holds is required. With non-qualified stock options, the difference between the guaranteed option price and the fair market value of the stock is taxed as ordinary income in the year they are exercised. Therefore, they are not good candidates for charitable gifts due to the automatic recognition of ordinary income. Non-qualified stock options are transferable to a trust, but will most likely result in income being taxed to the donor of the difference between the fair market value and the option exercise price. Qualified stock options are not
transferable to a trust. These options are subject to holding period requirements relating to disposition of exercised shares.

**Bargain Sales (including mortgaged property)**

The Foundation will obtain an independent appraisal of the property. If the Foundation intends to sell property that is obtained through a bargain sale, it must be determined that there is a market for the sale of the property within a 12-month time horizon. The donor may be able to avoid the bargain sale rules by executing a “hold harmless” agreement in favor of the Foundation. However, the value of the property will be reduced by the amount of the mortgage for purposes of computing the deduction. Without this agreement, a bargain sale is treated for tax purposes as two separate transactions, one part sale and one part gift. The basis of the property is allocated between the sale portion and the gift portion to allocate gain.

**Gifts in Kind for Foundation/VMI use**

If art is being given for a specific display area, the Institute must determine whether or not they wish to accept it for display. Otherwise, the decision as to whether or not art will be accepted is to be made by the VMI Museum. The Museum will decide whether it will be accessioned into the collection, or whether or not the Foundation should accept it for sale. Works of art created by the donor, or acquired by gift from the artist to the donor are ordinary income assets, and therefore the deduction is limited to the basis, which is generally cost. If the donor has already deducted the cost as a business expense, there is no deduction available. If the property is inherited from the person who created it, the estate may claim the full fair market value for tax purposes. Books and manuscripts can also be accepted by an academic or administration department for use; otherwise, the Preston Library will decide whether to accession or accept it for sale. Other gifts in kind such as computer equipment and sports equipment can be accepted by the department to which it is given. In order to receive gift credit for the donated item, the donor will be required to provide the Foundation with an independent appraisal. The tax receipt will list the item donated, but will not list a value.

**Other Tangible Personal Property**

All other tangible personal property will require an independent qualified appraisal. Gifts over $5,000 must be supported by a Qualified Independent Appraisal commissioned by the donor.

1. The PM&G Committee will review the material presented by the Development Officer and make a determination as to whether to recommend the acceptance of the proposed gift or, if necessary, to postpone a decision pending the receipt of additional information. The final determination will be communicated to the EVP who will direct the Development Officer to communicate the Foundation’s decision to the donor in writing, including the Foundation’s plans for distribution of the
assets and any conditions imposed by the Foundation prior to acceptance. The donor should also be advised to seek his/her own counsel regarding the deductibility of the value of the gift for tax purposes.

2. If a proposed gift is approved, the Development Officer will acknowledge receipt of the gift on behalf of the Foundation. The Foundation will not appraise or assign a value for the gift property. It is the donor’s responsibility to obtain and assign a value for the gift and to provide, at his/her expense, a qualified appraisal required by the IRS in the case of assets valued in excess of $5,000 ($10,000 in the case of closely held securities). In order to receive gift credit for the donated item, the donor will be required to provide the Foundation with an independent appraisal. The tax receipt will list the item donated, but will not list a value.

3. The donation will be completed by the execution and delivery of a Deed of Gift or other appropriate conveyance, and the delivery of the property, as applicable. If ownership is conveyed by a document other than the Deed of Gift, a separate indemnification and hold harmless agreement must be executed by the donor. The costs associated with the conveyance and the delivery of the gift, including but not limited to recording fees, will be either paid by the donor or charged to the fund of the department(s), program(s), or endowment(s) to benefit from the donations. Once the Deed of Gift has been received and recorded, a Form 8283 will be sent to the donor with his/her official gift receipt. The donor must prepare this form and send it to the Foundation for execution. The donor should be advised that the Foundation is required to file Form 8282 with the IRS if the property is sold within 2 years.

Matching Gifts

Reason for Policy

Many donors to the Foundation work for companies that will make a donation of an equal or greater amount to the charities in which their employees are contributing. These gifts represent substantial dollars for the Foundation and therefore it is important that we identify opportunities for matching gifts and process these gifts expeditiously. Some companies provide matching funds on an annual basis only, so it is important that forms are processed and mailed by the due date stated, or it may result in a one year delay in the receipt of the matching funds.

Statement

- Many companies that employ our alumni, parents, and friends provide matching gifts to the Foundation for gifts made by their employees, retirees, spouses, and board members. The ratio of the match is at the discretion of the employer.
• Matching gift companies will generally only match gifts that are made directly to the charity by their employees, retirees, spouses and board members. Therefore, if a donor is making a gift to us through a donor advised fund, such as the Fidelity Charitable Gift Fund, or a community foundation, the company will generally not match such a gift. A donor using this method of funding his/her gift should be advised that the gift might not be eligible for matching funds from his/her employer.

• Matching gifts are generally applied to the same designation as the original gift from the donor, unless otherwise specified by the donor or by the company, and both are aware of the designation.

Procedures

• Ideally, the donor sends a corporate matching gift form with his/her donation. The form and donation should be forwarded to Accounting. Accounting maintains information on company requirements including which companies require copies of the donor’s checks and which require a phone call from the donor rather than the form. To ensure conformance to each company’s matching gift procedure, matching gifts must be processed through Accounting.

• On occasion, the corporate matching gift form is sent separately after the check. A matching gift form received separately from a check should be forwarded directly to Accounting. Upon receipt, the information is verified against the donor’s giving record then follows the same procedure as a form that was accompanied with the check.

• Once the form is signed by the Accounting Supervisor, it is copied and the copy kept on file until the match is received. The copy can be used to check on the status of match and is available to submit again if there is a problem. The matching gift form is then submitted to the company for processing.

• If Accounting receives a check from a donor employed by a matching gift company, but does not receive a matching gift form, they will either 1) send the donor a standardized matching gift form if the donor’s company accepts such forms or 2) send a Request for Matching Gift Form to the donor. A matching gift phonathon will be conducted each spring to all donors that work for matching gift companies that have not yet provided us with a matching gift claim form.

• The matching corporation sends the match check to Accounting. Corporations may issue checks as they receive matching gift forms, or at specified intervals (quarterly, semi-annually, annually). The donor needs to be advised that matching gifts may not be received until a later date and therefore may not be available for current spending if these funds are to be applied to a specific purpose.
Accounting will issue a receipt to the matching corporations or the matching corporate foundation to be given to gift officers for mailing with an acknowledgement.

Corporate matching gifts may be soft credited toward a donor’s open pledge balance, thereby reducing pledge balance owed. Donor should be asked to make a decision at time of pledge as whether to use matching gifts to offset pledge balance and notation should be made on original pledge sheet signed by donor.

DEFERRED GIFTS

Pledges

Reason for Policy
Pledges are an important part of the fund raising process. Without appropriate policies and procedures regarding the collection and management of pledge commitments, we could jeopardize the receipt of these funds.

Statement
If the donor receives consideration for the pledge, the pledge will be legally binding. Consideration would include any privileges afforded the donor as a result of the pledge, such as the naming of a building, school, or program after the donor. Nonbinding pledges are considered to be conditional on continued goodwill of the donor. In the case of a binding commitment, the donor shall execute a Charitable Deferred Pledge Agreement, which is a commitment to the donor’s estate in the event of his/her death before the completion of the pledge. With binding or nonbonding pledges, it is important to have processes in place that will encourage donor to complete their commitments.

Procedures

- A pledge must specify the exact amount and the duration of the pledge period

- An Accounting staff member will send the donor reminders on an outstanding annual pledge unless the donor has requested a pledge reminder on his/her own schedule or has requested not to receive a reminder.

- Multi-year pledges will generally be honored for a period not to exceed 5 years. Major gift pledges may be extended for a period not to exceed 10 years. Exceptions to this policy should be brought to the EVP or, in usual circumstances, the PM&G Committee for review.

- All pledges must be accompanied by a Declaration of Intent signed by the donor to be recorded as a documented pledge on the donor’s record.
If a verbal pledge is negotiated by a development officer, a copy of the Declaration of Intent form should by sent by the gift officer to the donor stating the amount of the pledge and the time period over which it will be paid and request a signature. It should be explained to the donor that new accounting standards and rules and regulations require that this paperwork must be in place for audit purposes.

Contributions received from a donor-advised fund such as Fidelity Charitable Gift Fund cannot be applied to an individual’s pledge. Applying the gift to a pledge might be construed by the IRS as though Fidelity were not making an independent decision as is required to retain their tax exempt status.

In situations where a donor has pledged a substantial donation to the Foundation over a period of time, and the pledge is a binding pledge, the donor will be asked to execute a Charitable Deferred Pledge Agreement. This is an irrevocable and binding obligation on the donor’s estate. NOTE: Acceptance of these gifts may be contingent upon making such a provision.

**Estate Provisions**

**Reason for Policy**

A significant portion of gifts that come to the Foundation each year are realized as a result of the death of the donor (estate gifts). Because of the magnitude of these gifts and the fact that gifts of this nature are revocable, it is important to solicit and steward this type of gift during the donor’s lifetime. It is equally as important from a fiscal standpoint to follow through to assure timely collection of the proceeds on the death of a donor.

**Statement**

The most common forms of estate provisions are bequests, life insurance beneficiary designations (where the donor continues to be the owner of the policy), and retirement plan beneficiary designations. The donor retains complete control over the distribution of these assets during his/her lifetime. Although a donor may tell us currently that he/she has done an estate provision for VMI through the Foundation, it may be some before the Foundation actually receives this gift. These gifts do not become irrevocable until the death of the donor. To secure this stream of revenue for the future, the Foundation’s role is to (1) solicit gifts of estate provisions through wills and beneficiary designations during a donor’s lifetime, (2) when meeting with donors, try to identify these provisions so that we can steward donors, determine their intent for the use of their gift, and keep them connected to VMI and the Foundation through a legacy circle or planned giving society membership, and (3) manage the process of estate settlement so we can receive benefits from the gift as soon as possible.
The Foundation is not equipped to perform fiduciary duties associated with the appointment as Executor of a donor’s will, and will only accept such an appointment in unusual circumstances (i.e. donor has no living relatives).

Procedures

Estate Provision solicitation:

Bequests:

- When making a will, the donor should obtain the assistance of an attorney. If a donor indicates that he/she intends to put the VMI Foundation in his/her will, the following are suggested forms for making various types of bequests:

  **Outright Bequests:**

  **Specific Bequest:** “I give, devise, and bequeath the sum of $_______ (or description of property) to the VMI Foundation, Lexington, Virginia, 24450, to be used or disposed of as its Board of Trustees in its sole discretion deems appropriate or as per a Memorandum of Understanding for Designated Funds that I may have on file with the Foundation.”

  **Residuary Bequest or Percentage Bequest:** “I give, devise, and bequeath (all/or _____%) of the remainder of my estate to the VMI Foundation, Lexington, Virginia, 24450 to be used or disposed of as its Board of Trustees in its sole discretion deems appropriate or as per a Memorandum of Understanding for Designated Funds that I may have on file with the Foundation.”

  **Designated Bequest:**

  The donor should be advised to keep the language in the will or other estate provision as generic as possible and to refer to a separate Memorandum of Understanding that is created at the time that the provision is established. This way, the memorandum may be changed from time to time at the desire of the donor without incurring the expense of re-writing the will. All documents for bequests for special purposes must contain the following contingency clause:

  If, in the opinion of the VMI Foundation, all or part of the funds cannot be applied in strict conformance with the purpose(s) previously stated, they may use these funds for other appropriate purposes as nearly aligned to the original intent of the donor as good conscience and need dictate within the authorized powers of the VMI Foundation.
Retirement Plan Designations:

- The donor needs to execute a beneficiary designation form with his/her plan administrator to name the VMI Foundation as a beneficiary of the plan. Rules regarding distribution of retirement plan assets are complex, and donors should be advised to work with their financial advisors to assure that their desires are met. Development Officers should be aware of the following points:

  1. In cases where there is not prohibition, there may be little net tax benefit because when making a lifetime gift the donor must withdraw assets, which will then be fully taxed. The donor may receive a charitable income tax deduction equal to the withdrawal, but depending on the tax circumstances, this may not always be the case.

  2. Retirement plan assets are characterized as IRD (income in respect of a decedent). If they are left outright to family members, they are subject to both estate and income tax. Because charities are tax exempt, both of these taxes are avoided if they are given to charity upon the death of the plan participant.

- When a donor notifies us that he/she has provided for the Foundation in his/her estate plan, seek his/her permission to include them in the planned giving society. He/she may remain anonymous and not be listed in the honor roll of donors if he/she wishes.

- If a donor notifies us that he/she has provided for the Foundation in his/her estate plan, encourage him/her to provide us with a copy of the documentation. This may be a copy of the will (or the relevant codicil), the retirement plan designation, or other such documents. If the donor is willing, ask him/her to sign the Deferred Letter of Commitment so that we can recognize him/her for his/her total commitment to VMI.

- When working with a donor who wishes to make a bequest to fund a specific named program, it is important to point out to the donor that the program will cost more at the time of the donor’s death, and therefore the will provision required to fund the project will need to be more than the current funding minimum. The Foundation will provide the donor with a present value calculation based on their life expectancy to determine the projected amount that would be required to fund a specific program or purpose. To assure that the Foundation can satisfy the donor’s intent, a Memorandum of Understanding should be developed and brought to the PM&G Committee for review before the donor finalizes drafting his/her legal documents.
Stewardship and recognition of estate gifts:

- If a donor notifies us that he/she has made an estate provision, but has not or will not share documentation with us about the provision, we will include him/her in the planned giving society, but will not give him/her credit for gift crediting purposes.

- If a donor notifies us that he/she has made a will provision and shares document and financial information with us, we will recognize the donor for his/her commitment as defined in the Gift Crediting Policy.

- Calculation and booking revocable commitments: Gifts of this type must be accompanied by a Deferred Gift Letter of Commitment executed by the donor. The Planned Giving Officer will prepare a computation for the present value of the bequest intention or revocable commitment.

Estate settlement process:

- A Development Officer receiving notice of a bequest expectancy should notify Accounting. Upon receipt, the proceeds will be booked as a realized bequest.

- The Planned Giving Officer will immediately contact the executor. In order to track the progress of this estate, the Foundation will need (1) a copy of the will, (2) a copy of opening inventory for the estate, (3) an estimate of the value of the estate if the Foundation’s share is expressed as a percentage or residual, and (4) information on when the Foundation can expect to receive distribution.

Life Insurance Policies & Commercial Annuities

Reason for Policy

Life insurance gifts may take many years to realize, and the cost of administration and premium payments can be time consuming and expensive for the Foundation. It is imperative that we have policies in place that assure that the value of the gift outweighs the possible expense and liability.

Statement

The Foundation will accept life insurance policies and commercial annuities as gifts only when the VMI Foundation is named as owner and beneficiary of 100% of the policy or contract. A policy on which the donor retains incidents of ownership and the Foundation is named beneficiary only is not a completed gift. This is an incomplete commitment, because the donor retains the right to change the beneficiary. If the policy is a paid-up policy, the value of the gift for the Foundation’s accounting purposes is the policy’s replacement cost (the cost to purchase an identical policy). If the policy is partially paid up, the value of the gift for the Foundation’s gift accounting purposes is the policy’s cash
surrender value. (Note: For IRS purposes, the donor’s charitable income tax deduction is limited to the cash surrender value or the net premiums have been paid on the policy, whichever is less.) Commercial annuities may or may not be appropriate for the donor to use as a gift because of complex tax issues. Donors should always consult his/her financial advisor about the advisability or tax deductibility of these types of gifts.

**Procedures**

- Fully paid up policies will be accepted as long as the VMI Foundation is named owner and beneficiary.

- The Foundation will consider for acceptance life insurance policies that meet the following criteria:
  
  1. The policy is a whole life insurance policy (term life will not be considered).

  2. The policy is greater than or equal to $10,000 in face value.

  3. The Foundation is designated as both owner and beneficiary of the policy.

  4. The donor signs a Declaration of Intent form indicating that he/she intends to make charitable contributions to the Foundation annually in an amount equal to or greater than the premiums due on the policy. If a donor makes contributions to the Foundation for premium payments, he/she can use appreciated securities to meet this obligation and thereby receive a charitable deduction for the amount of the donation as well as avoid the capital gains tax on the securities donated.

- All policy information will be maintained by the Accounting office. The donor will be sent an initial reminder of premiums due. It will be the responsibility of the Development Officer to notify the donor that if the premium is not paid within 30 days after the premium due date, the policy will surrendered.

- The Development Officer must inform the donor that the Foundation will not pay any premiums on policies for which they have not received a contribution and will surrender policies when premium payments are in arrears.

- If an individual names the Foundation both owner and beneficiary of a policy, it is an irrevocable gift. If the donor intends to claim a charitable deduction of $5,000 or more, he/she will be required to obtain a qualified appraisal to substantiate the value of the property. The donor’s deduction will generally be the lesser of cash surrender value or the premiums paid to date on the policy.
In order for the gift to be complete, the donor will need to deliver the original policy and/or a fully executed owner and beneficiary designation form.

Contributions for premium payments made by the donor to the Foundation will be considered charitable deductions by the donor.

Policies where the Foundation is not named as both owner and beneficiary such as group term policies or individual policies where a donor names the Foundation as beneficiary, but retains all incidents of ownership are not completed gifts. These gifts will be treated in the same manner as will provisions, retirement plan designations, and other gifts over which the donor retains control during his/her lifetime.

Unlike a gift of an insurance policy, a gift of an annuity contract will cause the donor to be taxed immediately on any deferred income in the annuity contract. The taxation depends on the type of contract and on the date on which the contract was executed. These gifts are complex and are not always beneficial for the donor to use as a funding vehicle. The Development Officer must advise the donor to seek financial advice before committing to a gift of an annuity contract.

We will not accept Charitable Split Dollar Plans. The IRS has made it clear that it may challenge the tax-exempt status of the charity involved in these arrangements as well as any charitable deduction claimed by the donors. For these reasons, we will not engage in any type of split dollar arrangement.

**Current and Deferred Charitable Gift Annuities**

**Reason for Policy**

Annuities obligate the Foundation to long term financial commitments. It is important that these gifts are structured to maximize the value to the Foundation in the future and that they do not result in being a liability rather than a source of revenue.

**Statement**

- Charitable gift annuities, by law, can only have a maximum of two beneficiaries.
- We offer current gift annuities, deferred gift annuities, and flexible deferred gift annuities.
- The minimum amount to establish an annuity is $25,000.
- Annuities may only be established with cash and readily marketable assets.
- In the case of gift annuities funded with a combination of cash and multiple securities that are received on different dates, separate annuities will be
established for each date on which a security is received. However, in the case of a cash gift combined with a gift of security, cash received within a short time of receipt of the security can be combined into a single gift annuity effective as of the latter of the date of receipt of the cash or the security funding the gift.

- The youngest annuitant must be at least 50 years old to establish a current gift annuity. For a deferred gift annuity, the youngest annuitant must have attained age 50 when payments are to begin.

- The rate that we agree to pay to the donor will be based on the rates established by the American Council on Gift Annuities as adjusted from time to time.

- All funds received to establish the annuity will be invested as part of the Foundation’s endowment funds. Funds from a charitable gift annuity will not be made available for use by the Foundation until annuitants are deceased.

- Payments to the annuitant are backed by the full faith and credit of the Foundation.

**Procedures**

- The donor must execute a One-Beneficiary Charitable Gift Annuity Agreement or a Two-Beneficiary Charitable Gift Annuity Agreement and must receive the Charitable Gift Annuity Disclosure Statement. The effective date of the agreement is established when the asset is received by the Foundation. If there are multiple securities funding an annuity and the securities are received on separate dates, separate gift annuities will be issued as of the date of the receipt of each security, and the payment period will begin on that day. If cash is combined with a security gift to fund an annuity, one annuity can be established as long as the cash is received within a short period of time of receiving the security. The gift date for payment purposes will be the receipt of the latter of the security or the cash.

- The Planned Giving Officer will prepare a tax information packet and send it to the donor. She/he will also prepare Summary of Benefits, Actuarial Calculations, and Taxation of Gift Annuity Payments schedules and will submit those to Accounting.

- Deductibility and taxability of the gift to the donor: The donor will receive a charitable deduction in the year of the gift for the portion of the gift that is considered charitable. The Planned Giving Officer will do this calculation. If the donor cannot use all of the deduction in the year of the gift because of the 30%/50% charitable gift limitations, he/she may carry this deduction over for five additional years. For annuities funded with appreciated assets, the donor must provide the Foundation with the cost basis of the securities that are used to fund the annuity. The IRS says that if a donor can’t provide a cost basis, the Charity
must assume a basis of zero, which will result in a larger amount of payments being taxable. If the donor has financial records or broker statements relating to the asset, the Planned Giving Officer may be able to assist the donor in the calculation of the basis. However, if the Foundation assists the donor in this process, the donor must sign the Cost Basis Verification form acknowledging that they believe the amount used to be the correct basis, and that he/she understands that without appropriate records, the IRS could disallow the basis calculation. If the gift is funded with appreciated securities, the portion of the capital gains tax that is attributable to the gift is avoided. The portion of the capital gain that is attributable to the annuity payment, and therefore coming back to the donor and/or other annuitants, is prorated over the life expectancy of the donor and a pro-rated portion is taxable in each year that payments are received. Depending on the nature of the asset that funds the annuity, each payment to the donor will consist of some combination of ordinary income, capital gain income, and non-taxable return of capital. NOTE: In order to pro-rate the taxable portion of the capital gain over the life of the payments to the annuitant(s), the annuity must be payable to the donor alone or to the donor as first annuitant and a survivor. If the donor establishes an annuity for one or two other beneficiaries, not including himself/herself the taxable portion of the gain must all be reported by the donor in the year of the gift.

- Special Situations:
  
  1. Deferred Gift Annuities: When completing the Gift Annuity Agreement, indicate the first installment payment with the deferral date.

  2. Flexible Deferred Gift Annuities: When a donor establishes a flexible gift annuity, he/she defines the earliest date that he/she would be interested in receiving an annuity. The Planned Giving Officer will provide a schedule showing the annuity rate on that date, and how deferring the payments to a later date will affect the donor’s payment. The benefit of a flexible annuity is that it allows the donor to select the date when he/she would like to begin receiving the annuity. The disadvantage of a flexible gift annuity is that the donor’s deduction is limited to the amount that the deduction would be as if the donor selected the first available date to begin receiving payments.

**Pooled Income Fund Gifts**

**Reason for Policy**

A pooled income fund is a unique vehicle, and not all types of assets can be accepted for a gift to such a fund. Because each beneficiary’s income is affected by all of the other donor’s gifts, a donor cannot make a gift to the fund that will not immediately generate income. Generally gifts to the pooled income fund should be in the form of cash or readily marketable securities.
Statement

- The Foundation maintains one pooled income fund with an investment objective of income. The minimum amount for a pooled income fund gift is $25,000.

- Life income beneficiaries must be at least 50 years of age, and payments will be made to no more than two life income beneficiaries.

- Generally, only cash and readily marketable securities will be accepted into a pooled income fund. Closely held securities and real estate are not accepted into the fund because they can be difficult to value, and a buyer may not be readily available. Tax exempt securities are not permitted as gifts to a pooled income fund.

- A pooled income fund gift will generally make sense to two principal types of donors: those 50 to 70 years old who are comfortable with a variable rate of return and those of any age who want to make a gift of appreciated securities to avoid capital gains taxes.

Procedures

- Pooled income fund gifts may only be funded with cash, publicly traded securities, or mutual fund shares.

- Gifts will be added to the fund on the monthly valuation date and the income interest will be assigned a number of units determined by dividing the fair market value of the Fund’s assets on the valuation day by the number of outstanding units.

- The donor must execute a One-Beneficiary Instrument of Transfer to the Pooled Income Fund A or a Two-Beneficiary Instrument of Transfer to the Pooled Income Fund A and must receive the Pooled Income Fund A Disclosure Statement. The effective date of the agreement is established when the asset is received by the Foundation.

- The Planned Giving Officer will prepare a tax information packet and send it to the donor. She/he will also prepare Summary of Benefits and Actuarial Calculations and will submit those to Accounting for recording gift.

- Deductibility and taxability of the gift to the donor: The donor will receive a charitable deduction in the year of the gift for the portion of the gift that is considered charitable. The Planned Giving Officer will do this calculation. If the donor cannot use all of the deduction in the year of the gift because of the 30%/50% charitable gift limitations, he/she may carry this deduction over for five
additional years. If the gift is funded with appreciated securities, the capital gains tax is avoided.

- Payment of income: The valuation of the income payout will be done as of the end of March, June, September, and December. Because of the complexity involved in computing the payout amounts, payouts will be sent to donors on or about the middle of the month following the evaluation date.

**Charitable Remainder Trusts**

**Reason for Policy**
Charitable remainder trusts generally provide larger deferred gifts to the Foundation than charitable gift annuities or pooled income fund gifts. However, because of administrative, investment, and tax implications, these gifts are more complex, and if not managed properly, can result in liability to the Foundation.

**Statement**

- Charitable remainder trusts provide more flexibility than a charitable gift annuity or a pooled income fund gift.

- There must be four parties to the arrangement: the donor, the trustee, the income beneficiary, and the charitable remainderman.

- The income beneficiary can be the donor and/or one or more individuals designated by the donor, and can be based on the life of the beneficiaries or a term of years not to exceed 20. However, if the donor names a beneficiary other than a spouse, he/she may be making a taxable gift.

- The trustee is responsible for the management and investment of the trust assets, making distributions, and preparation of tax returns and other required filings. The donor can serve as trustee or can appoint a bank or trust department. If the donor serves as trustee, the trust should not permit the income interest to be distributed in discretionary amounts among a class of beneficiaries. This power will cause the trust property to be includable in the donor’s estate.

- Because of the fiduciary responsibility and liability, the Foundation will not serve as sole Trustee. The Foundation will consider serving as Co-Trustee or Successor Trustee under certain circumstances.

- The donor is entitled to an income tax deduction for the portion of the gift deemed charitable in the year of the gift. The deduction can be carried forward five additional years if it cannot all be used in the year of the gift.

- Payments must be at least 5% of the market value of the assets calculated differently for different types of trusts, and no more than 50% of the market value.
For IRS purposes, there must be an assumption based on payout rates, life expectancies of income beneficiaries, and the IRS discount rate that is in place at the time of the gift (and that there will be at least 10% of the principal left for the charity at the end of the term of the trust). In addition, for a charitable remainder annuity trust, there has to be less than a 5% probability that the trust assets will be depleted before the termination of the trust.

A donor avoids capital gains taxes when transferring appreciated assets to a charitable remainder trust. However, because of the four-tier tax system on income distributions, some portion of the payments to the donor may be considered capital gain income. Payments to the income beneficiaries are taxable on a four-tier system. The first tier is ordinary income, the second tier is capital gains, the third tier is tax-exempt income, and the fourth tier is return of capital.

An income beneficiary of a trust may assign his/her income interest to the Foundation. He/she will be entitled to a charitable deduction of the present value of the stream of future payments. At that time, the trust will terminate and the Foundation will receive the trust principal.

There are two basic types of charitable remainder trusts. The charitable remainder annuity trust provides for a fixed payout. This payout is established based on the market value of the assets on the date of the gift. This payout then remains constant throughout the payout period and will not be affected by earnings or market appreciation or depreciation. An annuity trust can only be funded once and does not allow for additional contributions. An annuity trust is appropriate where the income beneficiary requires a certain payout and is not comfortable with fluctuations. A charitable remainder unitrust pays the income beneficiary a percentage of the market value of the assets valued annually. Therefore, this payout will change from year to year based on the market value of the assets. This type of trust can accept additional contributions. To accommodate the ability to accept assets that are not easily converted to cash, such as real estate, charitable remainder unitrusts can also take alternative forms. A net income charitable remainder unitrust provides that the income beneficiary will receive the lesser of the net income of the trust or a percentage stated in the trust document. A net income charitable remainder unitrust with make-up provides that if the net income is less than the percentage stated in the trust document, a make-up account is created. In subsequent years, if trust net income is greater than the percentage amount, income can be paid out up to the total of the current year’s percentage amount, plus any balance in the make-up account. A flip unitrust is a net income trust that allows a one time “flip” from a net income payout to the percentage stated in the document. These trusts are most often used for unmarketable assets (such as real estate), with the flip occurring on the sale of the real estate. However, a flip can occur on any triggering date that is not within the control of the donor, beneficiary, trustee, or any other person.
For purposes of net income trusts, trust accounting income is defined as interest, dividends, and rents. However, the donor can define capital gains as income for distribution purposes as long as there is a provision in the trust document to this effect. Treasury Regulations limit the gain that may be included in income to that attributable to appreciation occurring after the asset has been contributed to the trust.

Procedures

Accepting New Trusts:

- A donor can establish a charitable remainder trust without the knowledge or approval of the Foundation. However, if the donor requests that the Foundation serve in a trustee capacity, the following information must be provided:
  
  1. A copy of the trust document
  2. A list of the funding assets, with approximate market value;
  3. An investment plan; and
  4. Calculations showing value of trust, income payout projections, and residual value projections.

- If the donor names a Corporate Trustee, whether or not that Trustee is recommended by the Foundation, the Trustee must review and approve the trust document before acceptance.

- Getting documentation to book an irrevocable gift: We must have a copy of trust instrument, and a copy of initial funding statement showing market value of trust. In addition, for all trusts that the Foundation has booked, the auditors will require future substantiation of the value of the trust. For this reason, the Foundation strongly urges donors to instruct the trustee or investment manager to submit periodic statements.

Documentation to donors:

- The Development Officer should not promote charitable trusts as investment vehicles or compare them to investment alternatives. A charitable trust is a gift vehicle that generates income payments and tax benefits for a donor.

- When the VMI Foundation is named as Trustee in the document, the Development Officer should provide the donor with Trust Disclosure Statement. Proposals and sample tax calculations can be prepared in conjunction with the Planned Giving Officer, and should be identified as “For Discussion Purposes
Only.” These projections will be based on our current investment manager’s historical returns. If a prospect requests us to run projections based on more aggressive assumptions, it should be noted on the projections that the rates of return were suggested by the prospect. Final authority on tax calculations rests with a donor’s tax advisor. The Planned Giving Officer can also provide sample trust documents, however, the final trust document must be prepared or approved by an attorney representing the donor.

**Minimum trust size:** Although Trustees will have different minimum funding requirements and different minimum fees, as a guideline for establishing and managing a charitable remainder trust, the minimum value to consider is $100,000.

**Deciding on type of trust:**

- **A charitable remainder annuity trust** is most appropriate for conservative investors who seek security in a fixed payment. In addition, an annuity trust can only be funded once upon inception. Therefore a gift of multiple securities and/or mutual funds may not be appropriate because of the timing of receipt of those securities. A donor must see counsel if they are planning on using multiple securities to fund a charitable annuity trust in order to not disqualify the gift.

- **A charitable remainder unitrust** is appropriate for an income beneficiary who is not risk-averse and/or who hopes to use the trust as a hedge against inflation.

- **Net income trusts** are appropriate for individuals using assets that are difficult to liquidate, or for individuals who do not have a need for a high current income.

- **A flip trust** is a vehicle that works well for a donor who wishes to use real estate or other non-marketable assets to fund the trust.

**Accepting Trust Property:**

- Non-marketable assets (such as real estate) or other non-marketable assets must be valued by a qualified appraiser. Most trustees will require that the donor serve as his/her own trustee until the property is sold and then name the corporate trustee as successor. If the donor serves as his/her own trustee, the trust should provide for an independent co-trustee with valuation responsibilities or specify that illiquid trust assets are to be appraised by a qualified independent appraiser.

- If real estate is used to fund the gift, the following must be taken into consideration:

  1. Generally, mortgaged property cannot be used to fund a charitable remainder trust due to adverse tax consequences and the possible disqualification of the trust.
2. Donor must vacate the property before the asset is contributed to the trust.

3. Unless property is income producing, donor must also contribute cash to cover expenses to the time of sale including real estate taxes and maintenance costs.

4. Trust type should be net income, net income with make-up, or flip trust so that there is no requirement to make payouts to donor during time that real estate is an asset of the trust.

5. The trustee will require the same due diligence as an outright gift of real estate.

- Because of related use rules, tangible personal property is generally not an acceptable asset for a trust.

- Retirement plan assets: Donor will incur adverse tax consequences if he/she uses retirement plan assets during his/her lifetime to fund charitable trusts. However, he/she can name the trust as beneficiary of a retirement plan upon his/her death.

- Closely held business interests: These are attractive for a donor who is contemplating selling a business. To avoid UBIT, a charitable trust should never own 50% or more of the stock of a corporation. In addition, a charitable trust is not an eligible shareholder of S corporation stock, and a gift to a trust will result in the termination of the corporation’s S Corp status. These gifts will be subject to the same requirements as an outright gift of closely held stock.

**Selecting Trustee**

The Foundation will not serve as sole Trustee. If the donor of a trust desires the Foundation to serve in a Trustee capacity, it will serve under the following conditions:

- The Foundation is named as a Co-Trustee with another fiduciary that is selected by the Foundation.

- The Foundation must be the irrevocable recipient of 100% of the trust remainder.

- If the donor desires to name himself/herself or another fiduciary or individual as sole trustee, with the Foundation becoming Successor trustee upon the removal or incapacity of the current Trustee, the trust document should incorporate the following language:

  “Any Trustee may resign by an instrument in writing signed by him or her and filed with the trust instrument. A copy of such resignation shall be mailed or delivered to the donors, if living, to each person of full age and legal capacity (or, if there be no such person, the guardian or conservator, if any of each person under legal disability) to whom the annual
distributable amount is then payable, and to the Foundation. Successor Trustees shall, and additional Trustees may, be appointed in writing by the VMI Foundation, and the Trustee(s) so appointed shall signify their acceptance of the office of Trustee by a writing to be filed with the trust instrument. The VMI Foundation may serve as Trustee.”

Charitable Funds Managed by Others

Reason for Policy

Due to greater donor education, advisors such as certified financial planners, accountants, and attorneys involved with a donor’s philanthropy, and individuals accumulating greater wealth than they ever expected, people are becoming more interested in making larger gifts and seeking greater control over their gifts. Private foundations, supporting organizations, and donor-advised funds are complex gift options that allow donors to make substantial gifts to charity and maintain greater involvement over time with their gift, and oversee investment of their gift.

Statement

Private Foundations: Tax laws and regulations restrict various activities and investments of a private foundation. Such restrictions are intended to discourage potential abuses of the tax-exempt status by a private foundation.

Supporting Organizations: Supporting organizations offer both the operational advantages of a private foundation and the tax advantages of the public charities they support. A supporting organization is subject to fewer restrictions than a private foundation but offers the donor less control.

- Basic Deduction Rules: As with gifts to any public charity, donors may deduct up to 50% of adjusted gross income for gifts of cash to a supporting organization, and up to 30% of adjusted gross income for gifts of appreciated property.

- General Requirements:

  1. Organizational and Operations Test: The supporting organization must be organized and operated exclusively for the benefit of, perform the functions of, or carry out the purposes of one or more specified public charities.

  2. Control by Nondisqualified Persons Test: Disqualified persons, or individuals who are employed or controlled by disqualified persons, cannot control the supporting organization, directly or indirectly. Prohibited control results if (a) fifty percent or more of the voting power of the governing body consists of disqualified persons, (b) a disqualified person has a veto power over the actions of the organization, or (c) a contributor retains the right to designate who will receive the income or principal from a contribution.
3. Relationship Test: This test requires that the supporting organization be operated, supervised, or controlled by or in connection with the charity. To meet the “controlled by” requirement, a majority of the governing body of the supporting organization is appointed by the charity. To meet the “supervised or controlled in connection with” requirement, both the supporting organization and the charity are under common control. Therefore a majority of board members of the supporting organization are made up of officers or trustees or representatives of the charity. To meet the “operated in connection with” requirement, the supporting organization must meet two further tests: the responsiveness test in which it evidences that is responsive to the needs of the charity, and that typically the charity depends on the supporting organization to provide an amount of support that is significant to the total operation of the charity and its programs.

- Creation: A supporting organization can be established as either a corporation or a trust. Generally, an organization established as a trust may be easier and less expensive to create and operate.

**Donor Advised Fund:** Because donor-advised funds, like supporting organizations are public charities, these terms are often used interchangeably. They tend to be more flexible than private foundations.

- Basic Deduction Rules: A donor can deduct up to 50% of adjusted gross income each year for cash gifts and up to 30% of adjusted gross income for gifts of appreciated property to a donor advised fund.

- Investments: Although a donor may be given an opportunity to select investment options, these options must be developed and controlled by the organization providing the donor advised fund. The selections must be advisory, and not final or binding on the fund administrator.

- Limits on grants: All gifts from donor-advised funds must be made to properly-qualified charitable organizations. Gifts cannot be made for the benefit of the donor advisor, such as to a private foundation or any organization controlled by the donor or his family. Gifts also may not be made to purchase tickets or in any situation in which the donor will receive direct or indirect benefit.

- Donor Advice: The donor may retain the privilege of making recommendations to the administrator of the fund about the timing, amount, and recipients of distributions from the fund.

**Procedures**

Donors who wish to retain some level of control over their gifts typically use these types of arrangements. The Development Officer should work with the donor to determine
what his/her objectives are and what arrangement will work best for him/her. Due to the complexity of these arrangements, both the donor’s financial advisor and a financial advisor for the Foundation should be involved in the development of the gift vehicle.

**Private Foundations:** This option works best for donors who wish to maintain some control over their gift, to benefit many different charities, to be involved with the investment of the gift, and to allow their families to be actively involved in their philanthropy. The donor must have the financial means to pay the cost of creating, administering, and managing the private foundation, including preparation of annual federal and state filings. Although there is no contribution requirement to establish a foundation, private foundations work best for donors with charitable giving intentions of $1 million or more.

**Supporting Organizations:** This option works best for donors who are willing to maintain less control over their gift than they would if they established a private foundation, but can enjoy fewer restrictions in making and maintaining the gift. A donor, who wishes to make his/her gift using something other than cash or securities, such as real estate or closely held stock, is a good candidate for a supporting organization.

**Advantages**

- No minimum distribution requirements.
- No minimum amount of money must be paid out annually.
- There is enhanced income tax deduction treatment.
- A supporting organization avoids the private foundation excise tax on its net investment income, which means there is more money available for the charitable purpose.
- No self-dealing limitations.
- No limit on holdings in business corporations and enterprises.
- There are fewer restrictions on speculative investments such as real estate, restricted stock, and closely-held stock.
- A supporting organization can focus on making gifts to several programs.
- The donor can be involved with board members at the charities who will advise him, allowing the donor to work closely with the charitable organization.

**Disadvantages**

- Supporting organizations offer less control to the donor than a private foundation
Because of the complexity in establishing and managing supporting organizations, donors should be willing to commit a minimum of $500,000 to establish.

**Donor Advised Funds:** Unlike some charities, the VMI Foundation does not currently offer an internally managed donor advised fund. This type of fund works well for a donor who wants to support a few named charities at a substantial level and for a donor who wants to support many charities at lesser amounts.

Advantages

- A donor advised fund can be established with a relatively small amount of money, generally between $10,000 and $25,000.
- The donor can make a gift and take an immediate income tax deduction, and later advise which charities should receive the distribution.
- The tax benefits are better than those of private foundations.
- The fund is not required to file separate tax returns or accountings, and it is not subject to private foundation rules.

Disadvantages

- Donor gives up absolute control over distribution of his/her funds.
- Some for-profit institutions that offer donor advised funds may care less about philanthropy than about management of assets, and use vast marketing efforts to attract donors.

**Charitable Lead Trusts**

**Reason for Policy**

Because of the financial benefits of a charitable lead trust, this type of trust generally is a giving vehicle that will have appeal to a high net worth individual. A charitable lead trust can provide significant current income to the Foundation over a period of time. However, a charitable lead trust can take many forms and can have positive or adverse tax consequences for the donor, and therefore it is important to ensure that the donor’s objectives are met when he/she establishes this vehicle.

**Statement**

- A charitable lead trust provides for immediate support to the Foundation through payments for a set period of time as defined in the trust document, after which the
assets pass to a noncharitable beneficiary, such as the donor, the donor’s children, or other persons the donor specifies.

- Like a charitable remainder trust, the payout can be based on a fixed annuity amount, known as the Charitable Lead Annuity Trust, or based on a percentage of the market value of the assets as valued annually, known as the Charitable Lead Unitrust. However, unlike the charitable remainder trust, the charitable lead trust does not have to meet the minimum payout of 5%, and is not restricted by the maximum payout of 50%. Also, a lead trust cannot be established with a net income payout provision, as can be accomplished with a remainder trust. Like a charitable remainder trust, the payout term can be based on the life expectancy of the donor, or a term of years. However, there is no limitation on a 20-year maximum term of years as there is with the remainder trust.

- A charitable lead trust is a fully taxable trust, meaning that the trust pays taxes on its income and capital gains, unlike the charitable remainder trust. Therefore, careful consideration must be given to the assets funding the trust.

- Depending on the donor’s objectives, the donor can establish either a Grantor Charitable Lead Trust or a Nongrantor Charitable Lead Trust. In a Grantor Charitable Lead Trust, generally the donor specifies that the assets are to revert back to him/her at the end of the lead interest term. A grantor lead trust can also be created as the result of powers retained by the donor during his/her lifetime. The donor is entitled to an income tax deduction in the year of the gift of the present value of the income payments to the charity, subject to the limitations on deductibility. However, the grantor is taxed on the payments to the charity in subsequent years. Therefore, this type of trust only makes sense if the donor anticipates that he/she is in a significantly higher tax bracket in the year of the gift than he/she will be in future years. Grantor lead trusts have very limited practicality. In a Nongrantor Charitable Lead Trust, the donor specifies that the assets are to be paid to someone other than himself/herself at the end of the term. Therefore the donor is making a current gift based on the market value of those assets. Part of the gift is to the charity, and therefore is excludable from estate and gift taxes. The other part of the gift is to the remaindermen, and is considered a taxable gift based on the value at the time the trust is established. All capital growth in the value of those assets over the term of the trust passes tax free to the remaindermen.

**Procedures**

- The most common use of the charitable lead trust is the nongrantor lead trust in which the donor is using the trust to make a current gift to the Foundation while passing assets on to heirs that he/she expects will increase in value over the period of the trust. Therefore, lower discount rates, coupled with higher estate and gift tax rates, provides the best opportunity for using these vehicles.
- Generally, it is not economically feasible for a donor to establish a charitable lead trust for less than $100,000.

- The Planned Giving Officer can prepare examples for donor on how a charitable lead trust might work for them. In selecting rates of return, the Foundation will use the rates of the current investment manager based on historical returns. If the donor requests more aggressive rates of return, it should be noted on the examples that the donor has specified those rates.

- The IRS has not issued sample CLT documents, therefore, the Foundation cannot provide donors with sample language. The donor will be required to get these documents from his/her attorney.

- A donor can establish a charitable lead trust without the knowledge or approval of the Foundation. However, if the donor requests that the Foundation serve in a co-trustee capacity, the trust must be brought to the Development Officer. This will assure that the donor is given appropriate credit for his/her gift. The following information should be requested:

  1. A copy of the trust document.
  2. A list of the funding assets, with approximate market value.
  3. An investment management plan.
  4. Calculations showing value of trust, income payout projections, and residual value projections.

- The Trustee named in the document will generally require the document to be presented for review before accepting appointment as trustee.

- The gift will be booked and credited as specified in the Gift Crediting Policy in the year of the gift. All future annual payments from the trust are excluded from gift income.

**Retained Life Estates**

**Reason for Policy**

Although the Foundation does not take possession of the property until the tenant has ceased to retain his/her interest to the property, at the time of a gift of real estate with a retained life estate, the Foundation does take title to the property. Therefore, it is necessary to do the same due diligence that is done on outright real estate gifts. In addition, the tenants of the property in a retained life estate gift must continue to pay all the expenses associated with the real estate, and the Foundation must be assured that it is not accepting any liabilities or costs associated with this gift.
Statement

- A donor can give a remainder interest in a personal residence, such as a home, a condominium, or a farm to the Foundation. The donor or other occupants may continue to occupy the residence or operate the farm without disruption for the duration of the donor’s life. Thereafter, the residence or farm will either be sold or used by the Foundation for purposes related to the Foundation’s or VMI’s mission. The personal residence or farm does not have to be the donor’s primary residence, but must be a personal residence other than rental property.

- A retained life estate is an option for a donor who would otherwise transfer a personal residence to the Foundation at death. It is most appropriate for donors who are healthy and wish to reside in the property for the immediate future.

- As the life tenant of the property, the donor is still obligated to pay real estate taxes and fees for maintenance and insurance.

- The Foundation will only accept a retained life estate based on the life expectancy of the donor, and not based on a fixed term.

- Assuming the donor is the life tenant, he/she will receive an income tax deduction for the value of the remainder interest based on his/her life expectancy and the value of the property.

Procedures

- All gifts of retained life estates must be reviewed and recommended for approval by the PM&G Committee.

- The procedures for evaluating proposed gifts of real estate, as outlined in the Real Estate Gift Acceptance Policy, also apply to gifts of a remainder interest in property.

- As with an outright real estate gift, the value of the property must be at least $50,000.

- A charitable gift of mortgaged property is considered a bargain sale. The donor must execute a hold harmless agreement in favor of the Foundation and the property would be transferred to the Foundation not subject to the mortgage.

- A remainder interest will only be accepted if adequate provision is made by the donor for any expense in connection with ownership, including payment of mortgages, taxes, insurance and utilities. This commitment must be provided for in the quitclaim deed or other formal documentation.
In order to consider a gift of a retained life estate, the following information must be brought to the PM&G Committee:

1. A formal description of the property.

2. A copy of the current tax assessment showing the apportioned assessment between the value of the land and the value of the buildings.

3. A qualified appraisal of the property which must include the full fair market value of the property, the depreciable portion of the fair market value, the estimated useful life of the property, and the salvage value of the property.

4. The donor’s cost basis in the property including purchase price plus cost of depreciable improvements.

If the retained interest is accepted, the donor will deliver an executed Quitclaim Deed with Retained Life Estate to the Foundation.

For information purposes, the Foundation will prepare calculations for donor’s deduction, but it is the responsibility of the donor to validate that information with their tax advisor.

**SPECIAL PURPOSE GIFTS**

**Reason for Policy**

If a donor desires to provide funding for a particular project, it is important that we are assured that there is sufficient funding for the stated intent and that there is no commitment to funding a position or project that cannot be sustained. In addition, the Foundation has an obligation to assure that the donor’s intent is satisfied.

**Statement**

**Designated current operating funds** are gifts for current operating purposes but restricted to a particular division, department, project, or purpose by donors or other outside agencies. In order to be considered a gift for tax purposes, a gift cannot be restricted to the benefit of particular individuals and the donor must relinquish complete control over the use of the funds.

**Endowments** include true endowments, term endowments, and quasi endowments. All endowment language must be drafted and approved by the EVP of the Foundation, the CFO, and the VMI Superintendent if directed toward a department/major within the Institute.
A true endowment is set up at the donor’s request, provided the required minimum amount is met.

1. A named restricted endowment must be funded with $50,000 minimum.
2. An unrestricted endowment must be funded with a minimum of $25,000.

A term endowment may be established at the request of a donor. A term endowment may be established if the donor pledges to fully fund the endowment to the specified level stated in the endowment language either through a deferred or future commitment or within a specified period of time. In the event that the fund does not meet minimum requirement within three years of the initial funding or if funded with a deferred gift (within three years upon receiving the last distribution from the deferred gift vehicle), it will revert to a restricted account and will be used for the same purpose as the endowment income would have been. All funds in the account will be currently expendable and will no longer accrue income.

A flexible endowment will be established if the donor agrees to (1) provide funds annually adjusted each year for inflation/deflation, equivalent to the annual operating budget that would be produced by the proposed endowment until he/she has put into place the proposed endowment, and (2) provide in his/her estate plan a provision that assure the Foundation the specific amount needed to fund the endowment as a contingency in the event the donor has not completed the commitment prior to death.

A quasi-endowment is an account that has been converted from available funds over which the Foundation has control to an endowment account by action of the Foundation. Once a quasi-endowment is established, principal may only be invaded with Board of Trustees approval.

Named Giving Opportunities

The following funding levels represent minimum funding requirements. Funding levels will vary depending on the discipline and whether the funds are earmarked for new or existing positions.

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<th>CATEGORY</th>
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<tr>
<td>NAMED FACULTY/STAFF FUNDS</td>
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<td>Staff positions</td>
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Coaching positions
Teacher/Scholar Award
Faculty Summer Research Fellowships

STUDENT AID FUNDS

Undergraduate Scholarships: Restricted $50,000
Unrestricted $25,000

INSTITUTE FACILITIES

Naming Buildings Determined on a case-by-case basis
Naming Spaces within Buildings Determined on a case-by-case basis

INSTITUTE PROGRAMS Determined on a case-by-case basis

Procedures

- New allocation special purpose gifts in excess of $25,000 must be accompanied by the Special Purpose Gift Strategic Checklist. The necessary funding levels for various named giving opportunities will vary from department to department. It is necessary to discuss the required level of funding for a particular program with the Dean and director of that program before reaching an agreement with the donor as to the necessary commitment. If the proposed support is for a new or developing program, facility, or faculty position, the appropriate individual (Superintendent, Dean, Department Head) must sign the Special Purpose Gifts Strategic Checklist.

- All endowed funds must have a signed Memorandum of Understanding with fund language. Before sending the fund language to the donor for approval, approval must be secured from all interested parties within the Foundation and the Institute. This document must be signed by the donor, the EVP, the CFO, and the VMI Superintendent.

- The donor must be informed that if he/she gives the Foundation a contribution with the intent of establishing an endowed fund, but the fund language is not received and approved until some later time the accrual of the payout for that fund will not begin until the signed fund language is received.

- Endowments will produce an annual spending amount, which is currently set annually by the Foundation’s Board of Trustees as a percentage of the rolling average value of the endowment as valued over the most recent two quarters.
Where an endowment funds a new faculty or staff position, a faculty member generally cannot be named until the professorship is fully funded. When the Institute names a current faculty member to hold the professorship or uses a sufficient funding line from an existing and vacant position, the professorship can be named immediately following Board of Trustees’ approval of the appointment. Unless sufficient funds are available to support the position, recruitment cannot occur.

Deferred Funding: If a donor desires to establish an endowment fund or other special purpose gift through a will bequest, retirement plan designation, or life income gift, the following requirements will apply:

1. The donor must provide the Foundation with documentation that evidences the commitment. This would include a copy of the will provision, a copy of a beneficiary designation, and financial documentation of the value of the future provision.

2. Of the amount funded through a deferred gift arrangement, the present value of the gift must be at least equal to the minimum amount required less the amount received in current funds.

GIFT CREDITING POLICY

Reason for Policy

This policy is for the purpose of (1) differentiating between legal credit, CAE reporting credit, and credit for the purpose of stewarding donors, (2) providing consistent crediting policies between various fund raising efforts and campaigns, (3) providing credit to donors that is consistent with the value of their gift, and (4) assuring that credit is applied uniformly for all donors and types of gifts.

Statement

Reporting of gifts to donors for tax purposes will be done in the manner specified in the Internal Revenue Code. Reporting annual fund raising results to the Board of Trustees, the Council for the Advancement of Education (CAE), and other constituents will be guided by the Management Reporting Standards established jointly by the National Association of College and University Business Officers (NACUBO) and the Council for the Advancement and Support of Education (CASE).
Reunion Campaigns

Donors in a reunion year will receive credit in their reunion year totals as defined below:

- **Cash and Marketable Securities**: All acceptable gifts designated for any purpose shall be included at full market value. Marketable securities will be valued at the mean market value on the date of the gift, in accordance with IRS regulations.

- **Pledges**: A pledge will be included in reunion campaigns provided (a) the donor has completed a Declaration of Intent Pledge form, (b) the payment schedule is completed within five years, including the reunion year, and (c) the first pledge payment is received in the year of the commitment. A single-year pledge must be fulfilled in the fiscal year for which it is being credited (An exception is a major gift.).

- **Real Estate, Closely Held Stock, and other Non-Traditional Gifts**: Gifts of real estate, closely held stock, tangible personal property or other gifts in kind will be credited if (a) their value is determined by a valid appraisal, (b) it is anticipated that the asset will sell and the proceeds will be received during the reunion crediting period or the asset is to be retained for Foundation use, and (c) the value of the amount credited is documented by any cost incurred on the sale of the asset.

- **Irrevocable Life Income Agreements**: Gifts of irrevocable life income agreements including charitable remainder trusts, pooled income funds, and gift annuities will be counted for their full face value in the year that the agreement is signed and the asset funding the agreement is received. In order to credit a gift done through a charitable trust the Foundation must receive from the donor (a) a copy of the trust agreement, (b) a current trust statement showing the value of the assets, and (c) an agreement by the donor to have the trustee provide regular periodic statements. If the donor retains the right to change the interest of the Foundation, in addition, the donor must sign a Deferred Gift Letter of Commitment.

- **Charitable Lead Trusts**: The donor will be given credit for the face value of payments that will be received within the reunion year and two years following the reunion year. The donor must provide (a) a copy of the trust instrument, and (b) a statement from the managing bank or brokerage firm listing the date and value of the funding assets.

- **Life Insurance Policies**: Credit for life insurance policies will only be given if the donor names the Foundation as owner and beneficiary of the policy. Class
reunion giving totals will be credited with the cash surrender value of the policy at the time it is assigned to the Foundation.

- **Revocable Commitments:** Donors who provide for the Foundation through their will, retirement plan, or other revocable commitment during or before their reunion year will be credited for the discounted present value of the commitment. Only commitments with a minimum present value of $50,000 will be credited. However, if the revocable commitment is a component of a larger gift, and the donor has already contributed 50% of the total gift in current funds (minimum of $50,000), full credit for face value of the intention will be given. In order to receive credit the donor must provide (a) a copy of the documentation supporting the commitment, (b) a statement or written estimate of the value of the commitment if it is stated in other than a dollar amount, and (c) a Deferred Gift Letter of Commitment.

- **Bargain Sales:** Donors will be credited with the property’s fair market value less all purchase, holding, and resale costs. The value must be determined by a valid appraisal and the sale must be completed during the reunion crediting period.

- **Remainder Interest in a Residence or Farm:** A remainder interest is an irrevocable commitment, and the donor will receive credit for the remainder interest as calculated in accordance with IRS regulations if the interest is assigned during or before the donor’s reunion year.

- **Wholly Charitable Trusts:** If a donor creates a trust where the principal is invested and the income is distributed to the Foundation and in which all interest in both the principal and interest are irrevocably dedicated to the Foundation, the donor will receive credit for the full fair market value of the trust.

**Annual Fund Campaigns**

The Foundation Fund was established to provide VMI with renewable sources of revenue for expenditure in the fiscal year of receipt. In order to encourage annual support from alumni, parents, friends, faculty, staff, and cadets of VMI, all gifts of cash, closely held stock, and marketable securities for any purpose are included in the annual Fund totals. The first priority of the annual Fund is to secure gifts for unrestricted current operating support. Annual Fund donors will be acknowledged in the appropriate level of The Institute Society based on the associated credit value of their support.