

BROWN COUNTY COMMUNITY FOUNDATION, INC.

GUIDELINES FOR GIFT ACCEPTANCE AND ADMINISTRATION

A. INTRODUCTION:

Brown County Community Foundation, Inc. ("BCCF"), an Indiana nonprofit corporation established in 1993, encourages the solicitation and acceptance of gifts to BCCF for purposes that fulfill its mission, addressing community needs in Brown County.

The following guidelines govern acceptance of restricted and unrestricted gifts made to BCCF.

1. BCCF reserves the right to accept or decline all proposed gifts on a case by case basis, after recommendation by the Finance and Investment Review Committee and approval of the Board.
2. With the exclusion of publicly traded securities, the transfer of ownership of any non-cash contributions to BCCF is subject to review of legal counsel and approval by the Board. Acceptance is based on these guidelines that are intended to eliminate financial risks associated with holding title to such property. For example, for contributions of real property, an Indemnification and Hold Harmless Agreement may be required, along with a Phase I environmental audit at the Donor's expense, prior to acceptance of the property by the Foundation.
3. All non-cash contributions will be liquidated, unless the investment manager assigned to the portfolio agrees to retain the assets. No contributions will be accepted subject to Donor restrictions defining a holding period for the investment, unless approved by the Finance and Investment Review Committee and legal counsel.
4. Valuation of non-cash gifts, the preparation and filing of Internal Revenue Form 8283, or other forms required for the purpose of obtaining a charitable income or estate tax deduction, will be the responsibility of the Donor, or the Donor's personal representative, at its or their expense.

B. ASSETS:

I. Cash

Checks are to be made payable to Brown County Community Foundation.

The Brown County Community Foundation will accept bequest Board Motion to approve the following paragraphs regarding bequests is added to the Guidelines for Gift Acceptance and Administration document.

II. Bequests

1. Bequests: A charitable bequest is revocable as long as the donor is still alive, however we encourage donors to share their bequest intentions with the Brown County Community Foundation and provide a copy of documentation. With this we may put in writing a gift agreement to help us better understand your intentions and areas of interest. This information allows better planning for our future endeavors and current acknowledgement of your generosity.
2. Complicated or restrictive instructions may prevent the Foundation from accepting certain gifts. Donors and/or legal counsel should contact the Foundation Executive Director regarding any unusual administrative provisions. The name of the donor need not be disclosed. Such contact at the time of the gift's creation will help avoid any problems when the gift is implemented.
3. Sample language for a will is: "I give, devise and bequeath to the Brown County Community Foundation, Inc., an Indiana 501 (c)3 not-for-profit corporation, for the benefit of Brown County, _____ (Describe devise – for example, 'ten thousand dollars' or 'fifty percent of the residue of my estate') to be used in all furtherance of the charitable purposes of the Brown County Community Foundation, Inc. as defined in and subject to the provisions of its Articles of Incorporation and Bylaws."
4. Sample bequest language is also available by contacting the BCCF or the BCCF website. The website address is:
<http://browncountygives.org/bc/gives/planned-giving/>

III. Life Insurance Policies

1. For Donor recognition purposes, only gifts of both the ownership and beneficial interest in policies with guaranteed values/paid in full at age 65, will be recognized.
2. The Donor must provide a statement from the issuing insurance company of the value of policies prior to the date of contribution.
3. In the event a Donor ceases making premium payments, BCCF, in its sole discretion, shall consider the following options:
 - a. cash surrender;
 - b. exchange for paid-up policy with lower face value;
 - c. using accumulated/future dividends to make premium; or
 - d. using cash value to keep policy in force for a short period of time.
4. Under no circumstances will "split dollar" life insurance arrangements be considered as a gift.

IV. Publicly Traded Securities

1. Marketable securities may be transferred electronically from an account maintained at a brokerage firm, bank or other financial institution or may be

hand delivered or mailed to a BCCF employee or agent, with the Donor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed to be held by the Finance and Investment Review Committee.

2. In some cases, marketable securities may be restricted by applicable securities laws. In such instances, the final determination on the acceptance of the restricted securities shall be made after consultation with the Finance and Investment Review Committee, and may require additional donor undertakings as specified by BCCF's legal counsel.

V. Privately Held Securities

1. Privately or closely held securities, which include not only debt and equity positions in non-publicly traded companies, but also interests in limited partnerships and limited liability companies, or other ownership forms, will be considered, subject to approval of the Finance and Investment Review Committee.
2. The Donor must provide a qualified appraisal (according to IRS standards) for the market value of the shares dated no earlier than 30 days before the proposed date of the gift.
3. When reviewing acceptance of the gift, BCCF shall take the following into consideration:
 - a. Whether there are any restrictions/time limits on BCCF's right to sell the shares to third parties or back to the issuing corporation, and whether the shares are generally marketable;
 - b. Whether owning the shares would subject BCCF to potential liability;
 - c. Whether owning the shares would subject BCCF to potential tax on Unrelated Business Taxable Income;
 - d. Whether owning the shares could subject BCCF to embarrassment if its ownership of the shares became public knowledge because of the nature/type of business/reputation of the issuing corporation; and
 - e. Whether BCCF could realistically expect to profit from holding the shares for a period of time.

VI. Real Estate

1. Gifts of real estate may include developed property, undeveloped property or gifts subject to a prior life estate. A title insurance binder shall be provided by donor prior to the acceptance of the real property gift. The cost of the title report shall be an expense of the Donor.
2. The Donor must provide a qualified appraisal for the value of the real estate dated no earlier than 30 days before the proposed date of the gift. BCCF reserves the right to obtain an independent appraisal of the property.
3. BCCF generally accepts gifts of real estate with the intent to sell in the near future, unless the property can specifically be used to support the BCCF

mission. BCCF will notify the contributor (in writing and before the contribution) of its intention, and of BCCF's obligation to file IRS form 8282, if the property is sold within two years of the date of gift.

4. When reviewing acceptance of the gift, BCCF shall take the following into consideration:
 - a. Whether it can use the property for its exempt purpose or hold the property as an investment;
 - b. Whether the Donor has good title, and whether there are any restrictions, reservations, easements or other limitation associated with the property that will affect its marketability;
 - c. Any potential environmental clean-up liability exposure, based on conducting a Level One Environmental Assessment; the Assessment is an expense of the Donor;
 - d. If evaluated as potential investment property, the estimated amount of appreciation that could be realized if BCCF held the property for a period of time; and
 - e. The cost of owning the property, including insurance, property taxes, mortgages, maintenance, etc.
5. The Donor may be asked to sign an Indemnification and Hold Harmless Agreement, if any items described above are deemed a potential risk to BCCF.

VII. Gift of Remainder Interest in Residence or Farm

A remainder interest in a personal residence, farm or vacation property will be considered for acceptance subject to all requirements of the paragraph dealing with outright real estate gifts, above. The Donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the Donor, BCCF may either elect to hold the property to use it or reduce it to cash. The Donor, during his or her lifetime, remains responsible for all expenses for maintenance, insurance, real estate taxes and any property indebtedness.

C. CHARITABLE GIFT VEHICLES:

The Brown County Community Foundation (BCCF) welcomes donors who wish to establish a Charitable Trust in any of the following trust formats:

1. Charitable Remainder Annuity Trust where the BCCF is the *remainder* beneficiary of the trust. An annuity trust pays the *current* beneficiary a fixed portion of the trust established at the time of creation for a specified period of time.
2. Charitable Remainder UniTrust where the BCCF is the *remainder* beneficiary of the trust. The UniTrust pays the *current* beneficiary an amount determined at least annually on the total market value of the trust assets at a rate established when the trust is created for a specified period of time.

3. Charitable Lead Annuity Trust where the BCCF is the *current* beneficiary of the trust. The amount of payment is determined when the trust is created and is paid for a specified period of time. The donor determines the *remainder* beneficiary when the trust is created.
4. Charitable Lead UniTrust where the BCCF is the *current* beneficiary of the trust. The UniTrust pays the *current* beneficiary an amount determined annually calculated using the rate established when the trust is created on the total market value of the trust assets.

The Brown County Community Foundation encourages donors interested in establishing a trust to contact a financial institution with trust power and experience in managing charitable trust arrangements. The staff of the Brown County Community Foundation is willing to participate and/or facilitate contact with a qualified institution for those donors who would like assistance through the process. The Brown County Community foundation does not serve as trustee for charitable trusts.

D. GIFT RESTRICTIONS:

BCCF will accept unrestricted gifts, and gifts restricted for specific programs, purposes, organizations or agencies so long as the restriction benefits the citizens of Brown County. No restricted gift will be accepted that is inconsistent with BCCF's stated mission, purposes and priorities. Types of gifts that may be denied are gifts that are too restrictive or those that violate the terms of the corporate charter; gifts that are too difficult to administer; or gifts that are to be used for purposes outside of BCCF's mission. Final decisions about the restrictive nature of a gift shall be made by the Finance and Investment Review Committee.

E. GIFTS TO DONOR ADVISED FUNDS RE: EXCESS BUSINESS HOLDINGS

Under the Pension Protection Act of 2006 (PPA), the private foundation excess business holdings rule applies to donor advised funds as if they were private foundations. That is, the holdings of a donor advised fund in a business enterprise, together with the holdings of persons who are disqualified persons with respect to that fund, may not exceed any of the following:

Rules:

Gifts that fall under the excess business holding rules cannot exceed the following:

- Twenty percent of the voting stock of an incorporated business
- Twenty percent of the profits interest of a partnership or joint venture or the trust of similar entity
- Any interest in a sole proprietorship

Regulations state that donor-advised funds receiving gifts of interest have five years from receipt of the interest to divest their holdings above the permitted allowances. An additional five years could be approved by the Secretary of the Treasury.

Fund types offered include the following:

- Holdings that take the form of bonds or other debt instruments unless disguised as a form of equity
- Income from dividends, interest, royalties and from the sale of capital assets
- Income from leases unless the income would be taxed as unrelated business income
- *Functionally related* businesses and program related investments
- Businesses that derive at least 95 percent of their income from passive sources include dividends, interest, rent, royalties, and capital gains. This will exclude gifts of interest in family limited partnerships and other types of holding company arrangements.

Disqualified persons

Donors and persons appointed or designated by donors, qualify if they have advisory privileges with respect to the *donor advised fund*. Members of donors' and advisors' families are also disqualified. (See **BCCF Gift Acceptance Policy**)

Contributions affected

The regulation will concern closely held businesses and require the donor advised fund to dispose of the interest within five years of the date of the gift because the ruling means that they own more than 20 percent of the business.

A sponsoring charity can keep a contributed asset as long as they are not held by a donor advised fund. This also applies to funds such as field of interest or designated funds. This rule does not apply to gifts of real property. The exception is undeveloped land that may later be subdivided in preparation for sale. Gifts are excluded that include:

- Oil and gas interests
- Life Insurance
- Tangible personal property
- Interests in personal residences and farms.

Interests in investment partnerships and LLCs hedge fund, REITs, are also excluded from the definition of business enterprise if the enterprise is 95% or more of their entity's income is from passive sources.

F. CONFLICTS OF INTEREST AND OTHER ETHICAL CONSIDERATIONS:

1. **Conflicts of Interest.** BCCF will urge all prospective Donors to seek the assistance of legal and financial advisors in matters relating to their gifts and the tax and estate planning consequences. BCCF will comply with the "Model Standards of Practice for the Charitable Gift Planner" promulgated by the National Committee on Planned Giving. No employee or member of the Board of Trustees of BCCF may receive compensation or other material benefit from a Donor as a result of the gift planning process. The CEO and/or Board Chair do not provide financial benefits of any type to third party participants in the gift planning process.
2. **Protection of Donor's Interests.** BCCF will consider the Donor's interest the first priority in discussing any planned gifts, including the Donor's financial situation, philanthropic goals and tax or legal planning issues. BCCF will not encourage a Donor to make a gift that is inappropriate in light of these factors. BCCF will not enter into gift arrangements unless the gift reflects donative intent on the part of the Donor.
3. **Confidentiality of Information.** BCCF will maintain the confidentiality of any information received from or about a Donor's or potential Donor's interest described in the preceding paragraph. Such information will only be shared with staff or Board members to the extent necessary which will include the Finance and Investment Review Committee and outside legal counsel.

G. MISCELLANEOUS PROVISIONS:

1. **Costs of the Gift.** It is the responsibility of the Donor to arrange for and pay for any appraisal required for IRS purposes, as well as the costs associated with the consultation of Donor's own independent accountant, attorney or other advisor about the gift process.
2. **Compliance with IRS Filing Requirements.** BCCF will assist the Donor with the requirements of a qualified appraisal needed to file Form 8283 with the IRS, with the understanding that final responsibility for the information and the filing of the form remains with the Donor. BCCF acknowledges that it is responsible for filing IRS Form 8282 upon the sale or other disposition of any asset sold within two years of receipt of the gift, when the charitable tax deduction value of the item is more than \$5,000, or otherwise required by applicable law. BCCF will acknowledge all gifts in compliance with current IRS Regulations.

H. USE OF BCCF LEGAL COUNSEL:

BCCF will seek advice of its outside legal counsel in the following matters relating to the acceptance of gifts:

1. Closely held stock transfers;
2. Any gifts involving contracts such as real estate, bargain sales, insurance, charitable gift annuities or charitable trusts, and all other documents requiring BCCF to assume a financial or legal obligation as part of the gift;
3. Any transactions with potential conflicts of interest or that may invoke an IRS sanction; and
4. Other instances when a gift, based on complex facts or issues, may be referred by the Finance and Investment Review Committee or the Board.