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Private Foundations Bulletin

Reviewing and Updating Your Gift Acceptance Policy

Over the past several years, there have been many changes in the not-for-profit world, including the types of assets that donors are contributing to organizations. Traditionally, most donors would contribute either cash or a financial asset, such as donated securities, to an organization. However, with the new younger, charitable generation, there is an increase in digital asset donations as more and more people are investing in this new asset class while learning about the potential tax savings that can be realized through the donation of these assets instead of a traditional cash donation. In fact, through a recent study, it was shown that one in three digital asset owners have donated some form of digital asset to a public charity, with approximately half of those donors contributing over $1,000.

For private foundations that were already established prior to the creation of digital assets, this most likely does not have a major impact as most private foundations were established traditionally by means of an initial contribution of cash and/or securities. Although private foundations do not usually receive contributions on a regular basis, there has been an increase of investment into digital assets, as well as contributions from living donors of foundations, that have donated some form of digital asset instead of a traditional cash/financial asset. Furthermore, the donation of digital assets to grantees has been an increasingly popular topic among private foundations. Because of these fairly new events, it has led many private foundations to start asking the questions: Do we have a gift acceptance policy? Is it necessary to have one? and, If we do, has it been updated?

Why Have a Gift Acceptance Policy?

Although a gift acceptance policy is not a requirement, it is considered a best practice for organizations to have. A gift acceptance policy should define the foundation's position on accepting cash and non-cash gifts as well as provide assistance as to what types of gifts your foundation should accept and/or decline. A well-thought-out gift acceptance policy will also help the foundation with important details relevant to accepting the gift, such as:

- Does the gift align with the foundation's mission?
- Will the acceptance of the gift cause potential reputational harm?
- Are the conditions, as set forth in the gift agreement, excessively restrictive?

This policy can serve a dual function as it will enable the foundation to set its expectations with donors and provide guidance to its staff who typically field the questions and solicit these donations.

Furthermore, a gift acceptance policy will also identify specific reporting requirements [Internal Revenue Service (IRS), Forms 8282 and 8283, acknowledgement letters, etc.] for gifts accepted by the foundation to ensure compliance.

Some additional considerations to address in the foundation's gift acceptance policy are:

- Valuation – how to value the gift, especially if it is in the form of donated securities or non-financial assets, such as real estate, equipment, or digital assets, like cryptocurrency or non-fungible tokens. Differences in generally accepted accounting principles (GAAP) vs. tax reporting requirements should be considered, with particular attention being paid to tax implications.

- Liquidation – how to liquidate the asset, especially when there may not be an active market for it to be sold. The foundation should consider the complexity of liquidating gifts that are received. Given the complexity, it may be in the foundation's best interest not to accept gifts that may be a burden to liquidate.

- Administration – how to record and track gifts, which may be complex due to conditions or restrictions the donor placed on the gift. The foundation should consider whether they have adequate personnel to accurately track gifts with conditions/restrictions in place. Foundations that do not follow conditions/restrictions on gifts accepted can run the risk of reputational damage.

Special Situations for Consideration

As cited earlier, private foundations have experienced an increase in contributions of digital assets, usually in the form of cryptocurrency. A foundation that has started accepting these types of contributions should ensure that it has properly defined and implemented a policy, both internally and externally with potential donors, for how it will accept and, in turn, liquidate these gifts.

If a foundation determines that it will not manage or physically accept any digital assets but outsource this to a third-party intermediary and only receive the proceeds from the liquidation of the gift, then it does not need to overhaul its gift acceptance policy. It merely needs to add some language to explain that.

If the foundation does manage the acceptance of the digital assets, then the foundation should undertake the following steps:

- Define digital asset
- Outline the approval process of acceptance
- Determine how and when the donation will be liquidated
- Explain how the value of the donation is established
- Establish donor information requirements

In addition to having these policies outlined in its own gift acceptance policy, it is important for a private foundation that has begun gifting digital assets to grantees, that they inquire about the grantees' current gift acceptance policy. If a grantee does not have a policy nor updated its policy to accept digital assets, the gifting of such asset to the grantee could lead to issues such as the inability to accept, dispose, or maintain the asset.

Conclusion

Gift acceptance policies, while not required, can help foundations navigate the various types of gifts that a foundation could potentially receive. It also allows a foundation to educate a grantee or grantees on the importance of having an up-to-date policy, especially with the growth of various digital assets. As always, thoughtful consideration should be undertaken when formulating such a gift acceptance policy that can both protect a foundation's reputation and viability in the future.

Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the Private Foundation Services team members below:

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