

**THE SHARON FRANCIS FOUNDATION**  
**GIFT ACCEPTANCE POLICY**

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## I. MISSION

THE SHARON FRANCIS FOUNDATION (“THE FOUNDATION”) is dedicated to advancing education by conducting and/or funding research in the field of medicine, including regenerative medicine, and disseminating the results of the research to the public.

THE FOUNDATION is a registered charitable organization (Registration number 80324 1587 RR0001) with the Canada Revenue Agency ("CRA").

## II. GUIDELINES

### *Objectives*

The guidelines outlined in this document are intended to ensure:

- clear and informed decision-making in the process of accepting gifts;
- meeting of all federal and/or provincial laws, regulations and requirements;
- consistency with voluntary standards accepted by the FOUNDATION;
- application of efficient administrative, legal and accounting standards;
- accurate reporting on gifts made to the FOUNDATION; and
- consistent, equitable and ethical relationships with donors and sponsors.

This policy governs the acceptance and administration of all types of gifts from individuals and/or other entities. The goal is to encourage the funding of the FOUNDATION without encumbering it with gifts which may ultimately generate more cost than benefit, or which are restricted in a manner which is not in keeping with the charitable purposes, goals or best interests of the FOUNDATION.

To optimize funding from individuals and other entities, the FOUNDATION must be capable of responding quickly, and in the affirmative, where possible, in respect of gifts offered by prospective donors. This policy is intended as a guideline (except where stated otherwise). A certain amount of flexibility must be maintained, since some gifts can be complex thereby necessitating careful consideration of a number of factors. In some instances, the merits of a particular gift may require consideration and decision-making by the board of THE FOUNDATION.

### **Accepting or Declining Gifts**

THE FOUNDATION may accept or decline any gift. The final decision to accept or decline a particular gift rests with the **board** of THE FOUNDATION.

Some reasons for the refusal of a gift would be that it:

- has benefits that are directed to a specific individual or individuals;
- is outside the legal purposes or mission of the organization;
- is too narrowly restricted to be effectively used;
- unduly tries to influence the services of the organization;
- has an attached or potential liability that could create an undesired financial or administrative burden;
- could compromise the reputation of the FOUNDATION;
- requires an official donation receipt and it will be difficult to ascertain the value of the gift;
- may jeopardize the charitable status of the FOUNDATION;
- is from an individual or organization whose philosophy and values are inconsistent with the overall philosophy and values of the FOUNDATION;
- is perceived to come from illegal or unethical activities;
- is determined to be something other than a charitable gift; or
- in any way violates federal and/or provincial laws or regulations, or standards agreed to by the FOUNDATION.

## **CRA**

This policy is designed to comply with current laws and regulations. In cases of inconsistency, federal and provincial laws as well as CRA guidance will supersede this policy.

## **Responsibility to Donors**

All those raising funds on behalf of the organization must adhere to the following principles in their relationship with donors:

### ***Ethical standards***

THE FOUNDATION has an ethical responsibility to every donor. All staff, volunteers and professional representatives acting on behalf of the FOUNDATION will conduct themselves in accordance with accepted professional standards of accuracy, truth and integrity. *The professional standards and code of behaviours set out by the Association of Fundraising Professionals (AFP) and the Canadian Association of Gift Planners (CAGP) will serve as the ethical guidelines when raising funds for the FOUNDATION.*

### ***Confidentiality***

All donor information is to be dealt with in a confidential manner and solely by authorized personnel of the FOUNDATION. Those acting on behalf of the organization must exercise discretion and rigor in dealing with donations and donor information. the FOUNDATION shall respect the wishes of donors wishing to support the FOUNDATION anonymously and will take reasonable steps to safeguard the identity of such donors.

### ***Conflict of Interest and Undue Pressure***

No staff, volunteer or representative of the FOUNDATION will participate in the final preparation and/or execution of a donor's last will and testament, nor will they act as witnesses to any such wills.

It is unacceptable for any staff members, volunteers or other persons representing the FOUNDATION to use undue persuasion or pressure in securing any gift.

### ***Professional Advisors***

Prospective donors will be advised to consult their own professional advisor concerning their intention to donate, particularly with respect to any questions related to the acceptance or non-acceptance of a donation or, in the specific case of a planned gift, in order to ensure that they receive the best independent advice available.

The FOUNDATION's management is encouraged to use the services of professional advisors, such as lawyers, accountants, insurance advisors and others, where it deems it to be appropriate. It is particularly important when gifts are unusual, complicated, contentious or involve potential liability or a potential conflict of interest. It is important to separate the role of board members and other advisors. Board members should not be providing legal advice to THE FOUNDATION in either a paid or unpaid capacity. The board of directors has a fiduciary duty to protect the assets of THE FOUNDATION and obtaining appropriate advice is imperative.

## **III. GIFT ACCEPTANCE COMMITTEE**

### **Composition**

The Gift Acceptance Committee is composed of the Chair of the Board of Directors, the Executive Director and between 2 to 5 professional advisors with relevant experience in planned gifts.

### **Responsibilities**

The responsibilities of the Gift Acceptance Committee include the following:

- become familiar with various types of planned gifts;
- develop policies and guidelines regarding the acceptance and administration of planned gifts for board approval;
- determine the types of planned gifts to be offered by the FOUNDATION;
- recruit individuals who can act as a resource in the review of certain types of planned gifts;
- assist the gift planning officer in developing a comprehensive marketing plan, including the marketing of planned gifts to all centres of influence;
- review and critique publications and other marketing materials promoting planned gifts;
- evaluate products and services offered by vendors;
- be available, individually, to answer questions pertaining to particular gift situations;

- occasionally serve as speakers at charity-sponsored seminars;
- encourage prospective donors to make planned gifts;
- participate in selected prospect calls as appropriate.

The Gift Acceptance Committee renders the final decision on all specific donations referred to it for approval.

#### **IV. GENERAL POLICY**

##### ***Soliciting Donations***

Only authorized representatives of the FOUNDATION are officially empowered to solicit major or planned gifts for the organization. All staff, volunteers or representatives are required to communicate with the Executive Director prior to formally approaching a prospective donor.

##### ***Accepting Donations***

THE FOUNDATION can accept or refuse any gift. Donations and contributions must be accepted in the context of THE FOUNDATION's charitable purposes and mission, as well as the best interests, of the organization.

##### ***Unrestricted Gifts***

Unrestricted gifts are gifts for which the donor has made no designation as to the timing or purpose of expenditure. Gifts for the general support of the FOUNDATION may also be considered unrestricted gifts.

It is the goal of the FOUNDATION to encourage unrestricted gifts, where possible, as these provide the greatest flexibility and allow the organization to use these funds where they are needed most, today and in the future. Unrestricted donations will be used in a way that best contributes to the furtherance of the FOUNDATION's charitable purposes and mission.

##### ***Restricted Gifts***

Restricted gifts are donations for which the donor has given specific directions on how or when the gift is to be used.

Restricted gifts are inevitable in some cases and, when donated, must be used exclusively for the purposes and in the manner for which they were given. The restriction must be compatible with the FOUNDATION's charitable purposes and mission. Separately designated funds that are not endowed will be used for the designated purposes until expended

All restricted donation agreements must include an amendment or variation clause, so that in the event that the FOUNDATION is unable to use the donation for the specific cause identified, it is

able to redirect the contribution to a program or cause that is most similar to that designated, while making every effort to ensure that the donor's philanthropic objectives are achieved.

The following is a sample variation clause:

*“If, in the opinion of the FOUNDATION, it should no longer be practical or possible to use this gift for the specified purpose (for example, if the program to which it relates is restructured or discontinued), the board of directors of the FOUNDATION will redirect the gift to a new purpose that is, in their opinion, consistent with the original spirit and intent of the donor, in consultation with the donor (or the donor’s immediate family) where possible. The support provided by the redirected gift will continue to be identified with the donor.”*

Restricted gifts must be reviewed and approved in advance by the Executive Director of the FOUNDATION.

### ***Endowment Funds***

An endowment is a long term fund. A perpetual endowment fund is a fund in which the capital is preserved and annual expenditures are restricted to all or a portion of the income and capital appreciation from the investment. An endowment fund can be unrestricted or restricted as to its area of expenditure.

The FOUNDATION does not accept perpetual endowment funds as they are not in the best interests of the FOUNDATION’s goal of having flexible resources for the mission of the FOUNDATION. The FOUNDATION is prepared to accept an endowment or long term fund where the FOUNDATION will receive each year the greater of at least 10% of the funds (whether through income or encroachment on capital) or \$10,000. An endowment fund will only be created if it has a minimum balance to start of \$100,000.

In general the endowment funds will be unrestricted for the use of the FOUNDATION’s greatest needs. The creation of a restricted endowment fund (for example to assist the FOUNDATION with technology, education, staff training, etc., must be approved by the Executive Director, who, if he or she feels necessary, can defer the question to the Gift Acceptance Committee.

All endowment funds shall be established pursuant to a Gift Agreement which is subject to this Gift Acceptance Policy.

Income is distributed in accordance with the FOUNDATION’s investment and income distribution policies and procedures as they may be amended from time to time. Investment objectives of the FOUNDATION’s endowment may include obtaining a total return (yield plus capital appreciation) necessary to provide a dependable and optimal source of income for endowment beneficiaries, and preserving (in real dollar terms) the capital of the investment pool. A gift may establish a new endowment fund or augment an existing one.

### ***Responsibility for Donations***

In the circumstance of a negotiation to accept a donation, fundraising staff must consult the Executive Director of the FOUNDATION when the following types of situations occur, namely where the gift:

- might expose the FOUNDATION to an uncertain liability;
- may be precedent-setting or involve sensitive issues;
- may be perceived to come from illegal or unethical activities;
- may involve a proposal to name a program or a facility area after the donor;
- might present questions as to whether it is within the role and scope of the FOUNDATION;
- is from an individual or organization whose philosophy and values could be considered inconsistent with the overall philosophy and values of the FOUNDATION.

It is the responsibility of the Executive Director to inform the chair of the board of directors about any donor relationships or gifts that may be controversial in nature.

### ***The Administration of Donations***

All permissible donations directed to the FOUNDATION must be acknowledged and registered by the organization. the FOUNDATION will in turn issue an official donation receipt where appropriate. Of course, a donor can indicate that he or she does not require an official donation receipt. The FOUNDATION must receive and deposit the donor's donation in order to issue an official donation receipt. Official donation receipts are issued for the calendar year in which the donation is received. In addition, official donation receipts can only be issued in the name of the person making the donation unless there is a certification that someone else is the actual donor.

The official donation receipt and accompanying letter of acknowledgment represent the organization's initial recognition of a donation. In some cases, the letter of acknowledgment may be sent immediately and the official donation receipt sent later. In addition, the FOUNDATION may communicate its appreciation to donors for various types of donations in accordance with its recognition program.

There is more detailed guidance on the issuance of official donation receipts in Appendix "A" – General Rules on Issuing Official Donation Receipts.

### ***Donor Recognition***

The board of directors of the FOUNDATION, may establish criteria for the recognition and honoring of a donor with certain honors or benefits based on various giving levels achieved by a donor and the type of gift. These honors or benefits may include the listing of the donor's name on a roll or plaque of significant donors or the opportunity to receive invitations to donor recognition events.



Except in the case of naming opportunities which appear on a schedule of naming opportunities approved by the board of directors in the context of a capital campaign, the staff of the FOUNDATION shall make no commitments to a donor concerning the naming of buildings or other facilities without the approval of the board of directors. All recognition as discussed above shall be provided for in a written gift agreement.

## **V. Types of Donations**

1. Cash Donations
2. Public Share Donations
3. Gifts in-kind
4. Real estate donations
5. Bequests
6. RRSPs/RRIFs
7. Shares in a business and/or other commercial venture
8. Gifted life insurance policy and/or the products of life insurance policy
9. The gift of residual interest or a Charitable Remainder Trust
10. Corporate donations

## **Treatment of Donations**

### ***1. Cash Donations***

Donations in the form of cash (which includes donations made by cheque, electronic transfer, credit card, and/or other financial transfer mechanisms recognized by the FOUNDATION) are acceptable. Donations must be channelled to the FOUNDATION's accounting department to be processed and recorded. Where there are multiple cash donations by one individual or entity during the year, one official donation receipt may be issued recognizing all such cash donations during the calendar year.

### ***2. Gifts of Publicly Traded Securities***

The securities of publicly traded companies that are acceptable to the FOUNDATION are those that are registered for trade at a securities exchange in Canada or the U.S. These also include mutual funds. In order to obtain the exemption from capital gains tax, donors must donate publicly traded securities directly to the FOUNDATION rather than selling them and donating the proceeds.

It is the FOUNDATION's general policy to dispose of all gifts of security as expeditiously as possible. Thus, the FOUNDATION will attempt to sell, as soon as reasonably practical, all gifts of securities at a reasonable price, consistent with market conditions and otherwise in accordance with this policy. However, the FOUNDATION reserves the right, to retain securities from time to time.

For publicly traded securities, the fair market value will be determined by reference to the closing market price on the day that the publicly traded securities are received in the FOUNDATION's brokerage account without any restrictions or impediment to their sale.

Recognition will be based on the receipted value of the gift.

In some cases a stock, sector, or market is said to be thinly traded if transactions occur only infrequently, and there are a limited number of interested buyers and sellers. Prices of thinly traded public securities tend to be more volatile than those traded more actively because just a few trades can affect the market price substantially. It can also be difficult to sell shares of thinly traded securities, especially in a downturn, if there is no ready buyer. Shares of small and micro-cap companies are more likely to be thinly traded than those of mid- or large-cap stocks.

With thinly traded stock, determination of its fair market value will be more difficult. In general, the FOUNDATION will provide an official donation receipt for the lesser of (i) the closing price on the day that the stock is received in the FOUNDATION's brokerage account, and (ii) the amount that the stock is actually sold for.

### **3. *Gift In-kind Donations***

#### *In-Kind Donations*

In-kind donations, such as jewellery, artwork or other valuable personal property, may also be acceptable as a gift. However, due to the difficulty of valuation of in-kind donations, the FOUNDATION will generally not provide an official donation receipt for such gifts. In-kind donations shall not be accepted unless the donation is of use to the FOUNDATION or can be disposed of with significant benefit to the FOUNDATION.

a) The Executive Director of the FOUNDATION must approve the issuance of donation receipts for in-kind donations. Receipts will be issued according to the fair market value of the donation at the date that it was received. Determining the fair market value of in-kind donations can be a complex undertaking and will likely require the opinion of legal, financial and other advisors (see below).

b) Official donation receipts will not be issued to a business for a gift that has come from its own inventory. The FOUNDATION will provide businesses and organizations with a thank you letter and acknowledgment receipt for business purposes.

c) The FOUNDATION is not responsible for loss, theft, or damage to an in-kind contribution retained at, or outside of, its offices.

#### *Assessment of the real value of an in-kind donation*

In-kind donations such as gifts of artwork, jewelry or items of a unique nature, that appear to be valued at greater than \$1,000, if the donor will be provided with an official donation receipt, must have an independent appraisal of value by a reputable expert. Except in agreed upon circumstances,

the in-kind donor is responsible for the professional appraisal fees required to determine the fair market value of the gift. (Fair market value does not include amounts payable to others, such as commissions to sales agents or sales taxes such as GST or HST.) The FOUNDATION reserves the right to issue an official donation receipt in the amount of the assessed value of the in-kind donation as determined by a recognized expert in the field chosen by the organization.

#### **4. Real Estate**

Gifts of real estate may be made in various ways, including outright gifts, residual interest in property, or to fund a charitable remainder trust. The following are some general guidelines for gifts of real estate:

- The FOUNDATION shall secure a qualified appraisal of the property from a reputable valuator
- The FOUNDATION will determine that the donor has clear title to the property
- The FOUNDATION will review other factors (including zoning restrictions, environmental liability, marketability, current use and potential future uses, cash flow, ongoing maintenance costs) to ascertain that acceptance of the gift is in the best interest of The FOUNDATION.

The FOUNDATION may also require an environmental assessment, and will accept a gift of property only if remedies are taken which assure The FOUNDATION assumes no liability whatsoever.

A gift receipt will be issued for the appraised value (or the present value of the residual interest which is usually computed from the appraised value and actuarial tables).

#### **5. Bequests**

Gifts through wills (bequests) shall be actively encouraged by the FOUNDATION. Every request from the public for bequest wording should be immediately referred to the Executive Director of the FOUNDATION. The FOUNDATION can provide sample bequest language. No information on the FOUNDATION legal name or bequest clauses should be provided over the phone as this can lead to errors. At all times donors should be encouraged to use an independent legal advisor to professionally prepare a will.

Attempts should be made to discover bequest expectancies wherever possible in order to ensure accuracy and suitability and for long term planning purposes. This is a highly sensitive subject with most donors, so due care must be taken. If a donor is willing to share this information, then obtaining a copy of the page(s) that include the bequest provision in the donor's will is the preferable form.

Generally, the FOUNDATION will not serve as an executor or trustee of an estate or trust arrangement.

Where possible, intended bequests of property other than cash or marketable securities should be brought to the attention of the Gift Acceptance Committee and every attempt should be made to encourage the donor involved to conform his or her plans to the FOUNDATION's policy dealing with gifts-in-kind.

**6. *RRSP/RRIFs***

Donors may designate the FOUNDATION as a beneficiary of an RRSP/RRIFs. While the FOUNDATION can be designated as the beneficiary of any such plan, it does not assume any responsibility for the plans themselves.

**7. *Privately Held Shares***

Privately held shares may only be accepted after approval by the Gift Acceptance Committee and provided the FOUNDATION assumes no liability in receiving such gifts. Such securities may be subsequently disposed of only with the approval of the Gift Acceptance Committee. Accepting and disposing of privately held shares are complicated transactions for which legal and accounting advice should be obtained. In accepting such donations, the FOUNDATION does not assume any responsibility or liability for the enterprises involved.

The fair market value is determined by an independent appraisal at the date upon which the donation was accepted. Normally, the costs of an assessment fall to the donor; however in certain circumstances the FOUNDATION may assume these costs.

**8. *Gifts of Life Insurance Policy and /or the Products of Life Insurance Policy***

The FOUNDATION encourages donors to name the FOUNDATION to receive all or a portion of the benefits of life insurance policies that they have purchased on their lives. Such gifts can be made in four different ways:

- a) The transfer of ownership of a paid-up life insurance policy

In this case, the FOUNDATION will issue an official donation receipt for the current financial year for the fair market value of the policy. The donor must identify the organization as the owner and irrevocable beneficiary of the policy involved.

- b) The transfer of ownership of an existing policy on which premiums are still owed

Once the donor has transferred ownership irrevocably to the FOUNDATION and the FOUNDATION is the beneficiary of the policy, the FOUNDATION will issue an official donation receipt for the fair market value of the policy. An official donation receipt will also be issued for the subsequent premium payments.

- c) The gift of a new life insurance policy

Once the donor has identified the FOUNDATION as the owner of the new life insurance policy, he or she is entitled to an official donation receipt for premiums paid to the insurance company or for any contributions made to the organization to cover the premiums.

d) Naming the FOUNDATION as primary beneficiary of a policy

By naming the FOUNDATION the primary beneficiary of an insurance policy, the estate will receive an official donation receipt equivalent to the value of the policy upon the death of the policyholder.

No insurance products may be endorsed for use in funding gifts to the FOUNDATION without approval by the board of directors of the FOUNDATION.

The FOUNDATION is not able to issue an official donation receipt for any premiums paid on a policy where it is a beneficiary but does not irrevocably own the policy.

If the original donor is no longer willing or able to make the required premium payments, the FOUNDATION may continue the premium payments or take other action, such as redeem the policy for its cash surrender value, as deemed prudent in each particular case.

#### ***9. The Gift of Residual Interest or a Charitable Remainder Trust***

The gift of residual interest reflects an arrangement (usually in the form of a trust) under which property is deeded to the FOUNDATION but the donor retains use of the property for his or her lifetime or a term of years. For example, a donor may give a residual interest gift in a residence and continue living there, or a residual interest gift in a work of art and retain possession of the work of art.

The donor is given an official donation receipt for the projected actuarial value determined on the basis of CRA regulations or guidelines for such donations. An official donation receipt is issued at the point that the trust is created.

The gift of residual revenue or interest, and qualified trusts, must be managed by an outside administrator, and generally can impose no obligation or administrative responsibility with respect to the principal of any such gift on the FOUNDATION.

The donor and the FOUNDATION define the specificities of any such donation in an agreement. Having transferred the title of the property to the FOUNDATION, the donor remains responsible for taxes, insurance, public services and maintenance costs in respect of the transferred property. the FOUNDATION can assume responsibility for any part of the aforesaid expenses, but reserves the right to inspect any property from time to time to ensure that its interests are being adequately protected.

The FOUNDATION's legal advisor must participate in an examination of the terms of the will or trust and in the administration of the bequest or trust as it relates to the gifted residual interest.

**Investments**

The FOUNDATION’s investments are invested in accordance with the policies established by and approved by the board of directors.

**Exceptions**

Acceptance of gifts to the FOUNDATION in a manner that is in any way inconsistent with this statement of policy must be approved in writing by the Executive Director who shall report such exceptions to the board of directors at its next regular meeting.

**VI. Changes to the policy**

This policy will be periodically reviewed by the board of directors, and such other concerned staff member or volunteer, who work in collaboration with one another as may be required. All changes to this policy must obtain final approval from the board of directors of the FOUNDATION.

APPROVED BY THE BOARD OF DIRECTORS THE 30th day of November 2022.

PER:

Dr. Robert W. Francis, President and Director \_\_\_\_\_  
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*Dr. Robert W. Francis*  
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4/21/2023

Linda Goldsack, Director \_\_\_\_\_  
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4/24/2023

Arlene Willis, Director \_\_\_\_\_  
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*Arlene Willis*  
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## Appendix “A” – General Rules on Issuing Official Donation Receipts

### General Notes about Receipts

#### ***No Obligation on THE FOUNDATION to Issue Receipts***

Registered charities are not obligated to issue tax receipts. It is important that THE FOUNDATION is clear and upfront in explaining its policy with respect to donations and the issuance of tax receipts to donors.

THE FOUNDATION will not issue official donation receipts for small donations, i.e. donations of less than \$20.00. Furthermore, if at an event THE FOUNDATION will be providing an advantage to the guests, such as a meal, THE FOUNDATION may wish to include a statement in any advertising for the event warning donors that they will not be receiving a receipt for the full amount that they are giving to THE FOUNDATION, but only for the “eligible amount,” which involves subtracting the advantage received by the donor.

#### ***Whether Received or Not, It Does Not Affect How Funds May be Spent***

If funds are received from a donor or corporation without issuing a receipt, these funds cannot be spent outside the normal rules that apply to registered charities. Whether received or not, once funds are received by THE FOUNDATION, the funds can only be spent in accordance with THE FOUNDATION’s charitable purposes, subject to the *Income Tax Act*, CRA’s guidance, provincial trust law and other applicable law.

#### ***If In Doubt, Don’t Receipt***

THE FOUNDATION must be careful in issuing official donation receipts. If in doubt either don’t issue the receipt or obtain appropriate legal advice.

#### ***Preliminary Matters***

- Only those persons authorized by a board resolution of THE FOUNDATION to sign official donation receipts may sign official donation receipts.
- If THE FOUNDATION uses a receipt book then it shall be stored safely in a locked cabinet or drawer.
- If THE FOUNDATION uses a computer program to issue receipts it will be password protected.
- Receipts will be issued in sequential numbers.
- Copies of receipts will be kept for at least six (6) years in paper form or electronic form that is printable upon request.

#### ***Steps to Issuing Appropriate Receipts***

##### **1. Template receipt that contains all mandatory information**

The *Income Tax Act* (Canada) requires that there be mandatory information on official donation receipts. If THE FOUNDATION misses any of the mandatory information, then the official donation receipts are not complying with the rules and may be invalid. THE FOUNDATION should ensure that the template receipt they are using contains all the necessary information. CRA

has provided sample receipts with different layouts depending on whether it is a cash/non-cash gift and whether there is an advantage.

All official donation receipts for income tax purposes must contain the following:

- A statement that it is an official receipt for income tax purposes;
  - Name and address of THE FOUNDATION as on file with the Canada Revenue Agency;
  - Charity's registration number;
  - Serial number of the receipt;
  - Place or locality where the receipt was issued;
  - Day or year donation was received;
  - Day on which the receipt was issued if it differs from the day of donation;
  - Full name, including middle initial, and address of the donor;
  - Amount of the gift;
  - Value and description of any advantage received by the donor;
  - Eligible amount of the gift;
  - Signature of an individual authorized by THE FOUNDATION to acknowledge donations;
- and
- Name and website address of the Canada Revenue Agency (<http://www.cra.gc.ca/charities>).

For non-cash gifts (gifts-in-kind), the official donation receipts should contain the following, in addition to the above-mentioned elements:

- Day on which the donation was received (if not already indicated);
- Brief description of the property transferred to THE FOUNDATION;
- Name and address of the appraiser (if property was appraised); and
- Deemed fair market value of the property.

## **2. Letter form of receipt**

THE FOUNDATION may send a letter to donors and include the receipt at the bottom of the letter. This is acceptable, but THE FOUNDATION must make sure that there is a division between the letter and the receipt and that all the mandatory elements are included in the receipt.

## **3. Is it a "gift"? Not everything is receiptable.**

There are a large number of valuable payments or transfers from a person to a charity that do not qualify as being a "gift" under the *Income Tax Act* (Canada), and in those circumstances a charity cannot issue an official donation receipt.

THE FOUNDATION can only provide an official donation receipt for something that is considered a "gift." In order for a donation to be considered a gift, and therefore be receiptable, it must involve a voluntary and complete transfer of property from an entity to THE FOUNDATION with the intention of making a gift.

There are four elements for a "gift" namely, it must be:



- Voluntary

If a donation is made as a result of a contractual or other obligation (for example, a court order), it is not eligible for a receipt. Accordingly, if a person makes a donation because he is forced to – he is legally obligated, for example, by court decision – then it is not a gift.

- A complete transfer

It is not enough for a donor to pledge that he or she will one day give something to THE FOUNDATION, or to provide the object but not do everything required to change the ownership. For example, it is not sufficient to provide a house and key to THE FOUNDATION – someone needs to actually go through all the legal steps and arrange that the house is completely transferred over to THE FOUNDATION at the land titles or registry office.

- Property

Property includes cash, cheques, credit card, money order, wire transfer, and certain tangible items – such as computers, furniture, cars, land – but it does not include services as discussed below.

- Intention to make a gift

Under the *Income Tax Act* (Canada), if a donor receives an advantage that is greater than 80% of the value of the donation, then generally it is assumed that there is no donative intent and the person should not receive a receipt.

If any one of the above four elements is not present, a receipt should not be issued. If a person volunteers for THE FOUNDATION or provides services to THE FOUNDATION, such time or effort may be valuable, but it is not “property” transferred and is not receiptable.

#### **4. Common transfers that are not receiptable**

As CRA notes, the following payments to registered charities do not qualify as gifts:

- The payment of a basic fee for admission to an event or to a program (e.g. fees for day-care or nursery school facilities).
- The payment of membership fees that convey the right to attend events, receive literature, receive services, or be eligible for entitlements of any kind (e.g. free access to facilities that the public must pay to access). However, membership fees are considered as gifts if they confer no more than the right to vote at a meeting and to receive reports of THE FOUNDATION’s activities, unless such reports are otherwise available for a fee.
- Any portion of the purchase price of a lottery ticket or other chance to win a prize, even though the lottery proceeds benefit one or more charities;
- The payment of tuition fees (except as permitted by CRA Information Circular 75-23, Tuition Fees and Charitable Donations Paid to Privately Supported Secular and Religious Schools);

- Contributions of services (i.e. time, skills, effort). Contributions of services are not property and do not qualify. However, a charity can pay for services rendered and later accept the return of all or a portion of the payment as a gift, provided it is returned voluntarily.
- A payment from a business for which the business receives a material advantage, such as promotion or advertising in return. For taxation purposes, the business may be able to claim the contribution as an advertising expense.
- A gift subject to a direction by the donor that THE FOUNDATION transfer the funds to a specified person or family. In such an instance, the donor has made a gift to the person or family and not to THE FOUNDATION.
- A gift subject to a direction by the donor that THE FOUNDATION give the funds to a non-qualified donee.

### **5. Determining fair market value of gifts-in-kind**

Gifts-in-kind are typically tangible. Examples of gifts-in-kind include cars, furniture, computers, blankets, food, shares, clothes, art, books, land, etc.

There are concerns with gift-in-kind donations including, but not limited to:

- Often charities are pressured into accepting items they don't want or need;
- Often it is receipt driven and has nothing to do with helping THE FOUNDATION and its mission;
- Gifts-in-kind can create significant legal and ethical issues for THE FOUNDATION, such as environmental concerns with land, toxic or dangerous products that have been recalled, expired or inappropriately labeled pharmaceuticals, etc.;
- The process of dealing with gifts-in-kind including valuation, storage, transportation, disposal can use up a lot of time and resources of THE FOUNDATION, and in many cases are a net loss for THE FOUNDATION;
- Problems of establishing fair market value and receipting;
- Ethical concerns about certain items being donated to a particular charity;
- A few of the charities that issue the largest amount of gift-in-kind receipts are abusive tax avoidance schemes or charity scams; or
- Financial disclosure and reporting in both financial statements and T3010.

THE FOUNDATION may issue an official donation receipt if the fair market value ("FMV") of the gift can be determined. The Courts and CRA have used the following definition of FMV:

Fair market value is normally the highest price, expressed in dollars, that property would bring in an open and unrestricted market, between a willing buyer and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.

The factors that are implicit in the definition of fair market value are:

- Highest price means the highest price that is consistently achieved;
- The transaction occurs in the market where such properties are most commonly and consistently sold to the public;

- The public is the customary purchaser or ultimate consumer;
- An ultimate consumer is a person, institution or corporation who does not hold the item for subsequent resale;
- The appropriate or relevant market for a determination of fair market value is the most active market for the particular asset and is determined by the frequency and aggregate number of sales;
- The buyer and seller are typically motivated, where neither is under compulsion to buy or sell;
- Each party is knowledgeable, informed of all of the relevant facts and acting in their own best interests;
- An unrestricted and open market is one that is available to the public;
- The property has been exposed to an unrestricted and open market for an adequate amount of time;
- The transaction is not influenced by time restrictions that would have a significant effect on the price; for example, fair market value cannot be determined by a forced sale; and
- Payment is made in terms of Canadian dollars. To convert currency to Canadian dollars, appraisers should consult the rates published by the Bank of Canada, and take the higher of the noon and closing nominal rates (This information is available at <http://www.bankofcanada.ca/en/rates/exchange>).

In some cases the fair market value may be less than 1% of the “highest price” when you have a wholesale market or there is a prudent and knowledgeable buyer.

When the FMV of either a gift-in-kind or an advantage cannot be determined, an official donation receipt cannot be issued. THE FOUNDATION cannot rely on donors to advise it of the FMV. The onus is on THE FOUNDATION to determine FMV and the consequences of improperly determining FMV can be substantial. THE FOUNDATION must remember that some donors may have a vested interest in having the amount of the gift be inflated. As well, donors may not know the complexity of determining FMV and they may also simply be mistaken about the value of an item.

#### *Appraisal of FMV*

CRA’s position is that, for items over \$1,000.00, there should be an appraisal of the value by someone who is knowledgeable and independent of both THE FOUNDATION and the donor.

As well, it is important to note the following:

- A sale price is often not an accurate reflection of the fair market value;
- Determining fair market value for an item can be difficult, and some charities and donors inappropriately ignore the legal definition, focusing instead on what “the highest price” is;
- More than one appraisal may be necessary with large or difficult donations;
- The eligible amount of the receipt is not the appraised value; the eligible amount is the appraised value minus any benefit or advantage received by the donor or someone related to the donor;
- Appraisals are for fair market value (as defined above) and not “for insurance purposes”, “for probate purposes”, “value” or other purposes; and

- Appraisals must be arm's-length and prepared in an objective manner without any pressures from the donor, vendor, institution/public authority, or other appraisers; and
- Appraisers should disclose if they had any interest in the appraised property or have had any "personal or commercial intent or bias with respect to the parties involved (client or creator)".

*Determining FMV of marketable securities or shares traded on a public stock exchange*

When a donor donates shares on certain stock exchanges, the CRA has "as a general rule, accepted the use of the closing bid price of the share on the date it is received or the mid-point between the high and the low trading prices for the day, whichever provides the best indicator, given the circumstances, of fair market value on normal and active market trading." In some cases, such as thinly traded shares, this may not be appropriate.

*Deemed fair market value rule*

In 2002, responding to an increase in charity art flip schemes and other abusive gifting tax schemes, the Department of Finance introduced the deemed fair market value rule. The rule provides that, in certain circumstances, a receipt issued for a non-cash gift (gift-in-kind) must be issued for the lesser of the gift's fair market value and its cost to the donor immediately before the gift is made. In other words, a charity cannot, in certain circumstances, choose whether to use either fair market value or cost to the donor for the item; THE FOUNDATION needs to work out which of the two is lower, and use the lower one.

The deemed fair market value rule applies in three (3) circumstances, namely when:

- The gift received by THE FOUNDATION was initially acquired by the donor as part of a tax shelter arrangement;
- The gift was acquired less than three years before the time of donation for any reason; or
- The gift was acquired less than ten years before the time of donation, with one of the main purposes being to gift the property to a qualified donee (for example, a registered charity).

The following is an example of how deemed fair market value works:

A donor purchases a work of art at a garage sale for \$50, and six months later donates the work to THE FOUNDATION. THE FOUNDATION would like to provide a receipt. Prior to giving the art to THE FOUNDATION, THE FOUNDATION has the work appraised at a value of \$1,000. Because the donor is gifting the art within three years of having purchased it, THE FOUNDATION must issue a receipt for the gift at the lesser of its fair market value and its cost to the donor immediately before the gift was made. In this example, the official donation receipt must be made out for \$50. If the donor who received a receipt fails to notify THE FOUNDATION that the work of art was purchased for \$50 and is subject to the deemed fair market value rule, the value of that donor's gift could be reduced to nil by the CRA.

The following types of gifts are exempt from the deemed fair market value rule and are normally assessed at their fair market value:

- Gifts made as a consequence of a taxpayer's death;

- Gifts of inventory;
- Gifts of real property situated in Canada;
- Gifts of certified cultural property (special valuation procedures apply)(except when involving tax shelters);
- Gifts of certain publicly-traded securities; and
- Ecological gifts.

#### **6. “Split receipting”: subtracting the advantage from the gift**

The eligible amount of the gift on the receipt must be correct. However, at times this is more difficult than one may think. The CRA has rules on what they call “split receipting”. Essentially, if a donor receives an advantage, the amount of the advantage generally needs to be deducted from the value of the gift when calculating the eligible amount of the receipt.

For example, if John pays \$250 for a gala ticket, THE FOUNDATION cannot issue a \$250 official donation receipt to John. THE FOUNDATION needs to subtract the advantage, such as the meal, gift bag, entertainment, and door prizes. If the advantage works out to be, for example, \$100 then on the receipt it will show (amongst the mandatory elements):

Total amount of cash received by charity	= \$250
Value of advantage	= \$100
Eligible amount of gift for tax purposes	= \$150

The definition of advantage is very broad and some of the many possible advantages include:

- Property (for example, cash or non-cash gifts (“gifts-in-kind”));
- The use or enjoyment of property;
- The provision of services; and
- Other benefits including, but not limited to, assumption of debt by charity, sponsorship, or non-recourse loans.

There are also *de minimis* rules if the value of an advantage is the lesser of \$75 and 10% of the value of the donation. In such cases, the value of the advantage would be considered nominal and would not have to be deducted. If the amount of the advantage is over 80% of the value of the donation, a donation receipt cannot generally be issued.

CRA provides detailed descriptions of how advantages need to be calculated with different types of events such as gala dinners or golf tournaments. Unless THE FOUNDATION receives cash donations only, and never gives any advantages or benefits to the donor, THE FOUNDATION would need to be aware of the split receipting rules and how to calculate advantages. If the amount of the gift, and/or the amount of the advantage (when an advantage exists) cannot be determined, then an official donation receipt cannot be issued.

#### **7. Services (time, expertise, skills) are not property and not receiptable**

Donations of time, skill and effort are services and are not a transfer of “property” from the volunteer to a charity, and they do not qualify as gifts for donation receipt purposes. Therefore, donations of services, such as professional advice by a lawyer, accountant or other volunteer,

cannot be receipted. As well, by way of example, if a local contractor built a shed with supplies from THE FOUNDATION the contractor cannot have the value of their time receipted by THE FOUNDATION. Other types of services that do not qualify as gifts are: lending a piece of equipment, or allowing THE FOUNDATION to use a time-share or apartment. CRA takes the view that a loan of property is not a voluntary transfer of property to THE FOUNDATION and the mere granting of a right to use the property for a limited period of time is not considered a gift.

#### *Cheque Exchanges*

THE FOUNDATION can issue a receipt for services or work done if there is a cheque exchange. A cheque exchange is where a service is rendered to THE FOUNDATION, THE FOUNDATION is billed for the service and THE FOUNDATION pays for the service. Then, without any obligation to do so, the person who provided the service makes a donation to THE FOUNDATION of X amount of dollars and THE FOUNDATION then issues a receipt for X amount of dollars to the person.

This “crossing of cheques” or “cheque exchange” is very different than just issuing a receipt for the provision of services. When the person receives funds from THE FOUNDATION, they have to include the amount they receive in income, which increases the taxes they have to pay and all the receipt does is offset that increased amount of taxes. The cheque exchange works both for donation of time and lending of property.

#### **8. Make sure to have the correct date of the donation**

The date of donation needs to be correct. The exact dates can be very important in a number of circumstances. First, whether a donation is made in one calendar year or another affects the timing of tax benefits. Second, the date is also important for gifts-in-kind, which have to be valued on a particular date, and some types of gifts-in-kind, such as public company shares, can fluctuate considerably depending on the exact date that they are valued. Third, depending on the date that revenue is recorded, it can affect THE FOUNDATION’s financial statements.

#### **9. Make sure to have the correct name of the donor on the receipt**

Who is the donor? It is a factual issue and it is important that THE FOUNDATION provides the receipt to the correct donor. Consider the following situation: THE FOUNDATION receives a cheque from a corporation, and subsequently the president of the corporation calls THE FOUNDATION asking it to prepare the receipt in the president’s spouse’s name. If the funds are actually those of the corporation and not the spouse, then preparing the receipt in the spouse’s name is not permissible. On the other hand, if the president sends a letter on the stationary of the corporation noting that the funds are actually his spouse’s funds and that the receipt should be issued in the spouse’s name, then it may be appropriate to issue the receipt in the spouse’s name.

Another example is as follows: Jack and Jill organize a third party fundraising event for THE FOUNDATION at which 20 individuals each make a \$100.00 donation and receive no advantage for their donation. Jack and Jill collect the 20 x \$100.00 cash donations and submit them to THE FOUNDATION. THE FOUNDATION should obtain from Jack and Jill a list of the donors so it can issue a tax receipt to each of the individual donors. It would be inappropriate for THE FOUNDATION to issue a \$2,000.00 tax receipt to Jack or Jill. If in doubt, a charity can ask a

person or corporation to provide a declaration as to who the donor is, or THE FOUNDATION can refuse to issue a receipt.

#### **10. Electronic receipts**

As long as charities follow certain rules they can either: issue physical receipts from a receipting book, use a computer program to issue receipts that are printed and mailed, or issue electronic receipts from a website or by e-mail.

In the past, pre-printed receipting books were very common. There are advantages to using them in that they may have the requisite fields and they are numbered sequentially. However, with changes to the mandatory elements on the receipts, it can be costly to replace them.

Many charities use a program (such as a word processing or spreadsheet program) to prepare receipts. These receipts are then printed out. For a small number of receipts this may be adequate.

Some other charities use a computer program to issue the receipts. Others have set up internet-based systems that can automatically issue the receipts and, in some cases, the donor can be provided with a receipt in seconds.

Any system of electronic receipts must ensure that, if receipts are sent electronically, they cannot easily be altered. Sending a regular word processing file to a donor with the receipt would be inappropriate because the donor could change the amount of the donation or the name of the donor or the date on the receipt. On the other hand, sending an unalterable PDF would be acceptable.

#### **11. Properly replace lost or incorrect receipts**

THE FOUNDATION should ensure that, if replacing a lost receipt, the replacement receipt has all the same required information as the lost receipt with a note stating that it "cancels and replaces receipt No. X". THE FOUNDATION must ensure that the copy of the original lost receipt is kept and marked "cancelled" in its records.

If THE FOUNDATION has issued an incorrect receipt (for example, it does not contain all the required information or there is a typographical mistake on the receipt), it must keep both the incorrect receipt and THE FOUNDATION 's copy of such receipt, and both should be marked "cancelled." THE FOUNDATION can then prepare a correct receipt.

#### **12. Keep copies of receipts**

CRA requires that charities keep copies of tax receipts for a minimum of two (2) years from the end of the calendar year in which the donations were made. With respect to ten-year gifts, charities need to keep the donor's directions for as long as THE FOUNDATION is a registered charity, and two years after that date. Most other records are required to be kept for seven years. THE FOUNDATION may keep its official donation receipts for longer than the prescribed time in case they are ever needed by a donor or CRA. As well, if official donation receipts are produced electronically, a copy of the receipts should either be printed or kept in an unalterable format, such as burned to a CD.

#### **13. Make sure THE FOUNDATION's system is protected**

Official donation receipts are like bags of cash and should always be securely kept by THE FOUNDATION. Irrespective of what system is used, make sure that the donation receipts are adequately secured or supervised - otherwise they could be used nefariously by some for their own private interests. For computers used to issue or store the receipts, make sure the computers are password protected. If using receipting books, make sure they are kept locked up during off hours and are not accessible to anyone not issuing receipts. Inform the CRA or the police immediately if there is a concern with respect to false receipting.

**14. Do not lend THE FOUNDATION's registration to other organizations**

Charities are sometimes approached by people who are interested in contributing to a foreign charity or Canadian non-profit that is not a registered charity. The only reason (or an important reason) the funds are donated to the Canadian registered charity in such cases is that, while the Canadian individual wants the funds to be sent to the foreign entity or local non-profit, he or she also wants to receive an official donation receipt for tax purposes, instead of donating the funds directly to the foreign charity/local non-profit and not receiving the receipt for Canadian income tax purposes. If THE FOUNDATION receives the funds in such situations, the CRA refers to the Canadian registered charity as being a “conduit”. While charities are allowed to conduct foreign activities, they are not allowed to lend their registration or act as a conduit.

CRA has issued this warning:

**Caution: Lending registration numbers**

Under no circumstances should a registered charity lend its registration number to another organization for receipting purposes. A registered charity is responsible for all tax receipts issued under its name and number and must account for the corresponding donations on its annual information return. A charity that lends its registration number risks losing its charitable registration.

A charity wishing to work with a foreign charity as part of an appropriate structured arrangement with direction and control can do so as long as it follows the requirements as set out in CRA's Guidance “Canadian Registered Charities Carrying out Activities Outside Canada”.

**15. Returning gifts – be very careful**

Generally, a registered charity cannot return a gift. Once a charity owns the property, it should be used for THE FOUNDATION's charitable purposes. This is because THE FOUNDATION owns the property, irrespective of whether a receipt is issued. THE FOUNDATION must be very careful when accepting gifts with conditions attached to them, or fundraising for a particular purpose.

If THE FOUNDATION is accepting a conditional gift, in some cases it would be best to not issue a tax receipt until the donor agrees that the conditions have been fulfilled.

Before returning a gift, THE FOUNDATION should obtain legal advice to determine the best course of action. It may be appropriate to also advise the Charities Directorate or provincial Public Guardian and Trustee.



If a donor is upset with THE FOUNDATION or wants the donation to go to another charity, CRA suggests that one solution may be for a charity to offer, in order to retain the goodwill of the donor, to transfer the gift to another qualified donee instead of returning it.

### ***Avoiding Inappropriate Receipting***

Here are some suggestions for reducing the likelihood of inappropriate receipting:

- Know the rules for proper receipting;
- Access webinars and other publicly available resources on receipting;
- Make sure staff, volunteers, board members who are involved with receipting also know these rules;
- Ensure receipts have all mandatory fields;
- Have good governance and bring the board of directors into the receipting discussion;
- Have a gift acceptance policy for THE FOUNDATION and follow through with it;
- Be careful with gifts-in-kind and inflated valuations;
- Stay alert and avoid abusive gifting tax shelters and fraud;
- Have good controls over who prepares and signs receipts and make sure, if possible, there is segregation of duties and more than one person is involved in the process;
- Have adequate books and records; and
- Obtain legal advice when necessary or call CRA.

### **Consequences of Inappropriate Receipting**

Failure to prepare proper donation receipts can result in the suspension of receipting privileges and revocation of charitable status. However, there are also intermediate sanctions. If incorrect information is placed on a receipt, a charity can be fined or provided with a penalty equal to 5% of the eligible amount on the receipt for a first infraction. If THE FOUNDATION places deliberately false information on a tax receipt, it is liable to a penalty equal to 125% of the eligible amount stated on the receipt. Furthermore, there are third-party civil penalties that can be assessed.

There can be significant reputational harm to a charity and its board of directors if there is inappropriate receipting. In some cases, CRA has put out press releases on charities that have been suspended as a result of improper receipting or have lost their registered status. The media has also covered this issue.

