

# DIOCESE OF MARQUETTE

## GIFT ACCEPTANCE POLICY

### **PURPOSE**

The purpose of this policy is to serve the best interests of the diocese and its donors by providing guidelines for accepting gifts for various types of funds. The diocese screens proposed gifts in order to comply with related Canon, state and federal laws that affect the process of accepting a gift.

### **GIFT CRITERIA**

In order for the diocese to accept a gift these four criteria must be met:

- 1) The purpose of the gift must fall within the broad charitable purpose of the diocese;
- 2) The staff must be able to assure that gifts accepted by the diocese do not place other assets of the diocese at risk;
- 3) Gifts must be easily converted into assets that fall within the diocese's investment guidelines, and
- 4) The diocese must assure that it can administer the terms of the gift in accordance with the donor's wishes.

### **STAFF/DONOR RELATIONS**

Diocesan staff should disclose to all prospective donors the benefits and liabilities that could reasonably be expected to influence the donor's decision to make a gift to the diocese. Donors will be advised to consult with legal counsel and financial advisors in making their decision. In particular, donors should be made aware of:

- The irrevocability of a gift,
- Prohibitions on donor restrictions,
- Items subject to variability (market value, investment return, and income yield).

Staff should maintain a written record of discussions with donors. The role of diocesan staff shall be to inform, guide and assist a donor in fulfilling his or her philanthropic wishes, but never to pressure or unduly influence a donor's decision.

The diocese follows the ***Model Standards of Practice for the Charitable Gift Planner*** adopted by the National Committee on Planned Giving and the American Council on Gift Annuities. This code of ethics for planned giving practitioners is included as Appendix A of this policy.

Diocesan staff shall maintain strict control over files and information received from or about donors or prospective donors so as to maintain confidentiality of such information.

## **GIFT ACCEPTANCE/DECLINATION**

The diocese reserves the right to refuse any gift it believes is not in the best interests of promoting a healthy, faith-filled community. In addition, the diocese will not knowingly accept a charitable gift from a donor who:

- A. Has insufficient income and assets remaining after making a gift to provide for his/her needs such as personal support and healthcare.
- B. Has insufficient income and assets remaining after the gift to provide for his/her heirs for whom he/she is fiscally responsible.
- C. Has an apparent insufficient mental capacity to make a rational decision.
- D. Has insufficient input from competent financial, legal, and/or personal counsel.

The form of gift will also impact the level of review required to determine whether or not a gift will be accepted. The Director of Administration and Finance will make recommendations to the Bishop regarding gift acceptance/declination. In circumstances where a clear determination cannot be made by the Director, advice will be sought from the Diocesan Finance Council and/or legal counsel.

### **Gifts Requiring Director of Administration and Finance Review**

- Tangible personal property that is not readily marketable
- Real property
- Closely-held and S corporation stock
- Partnership interests
- Accounts receivable (gifts of loans, notes, mortgages, etc.)
- Gifts of intellectual property, mineral reserves, precious metals, and other types of assets carrying their own challenges.
- Gifts whose structure fall outside the ordinary purposes and procedures of the diocese.
- Life insurance policies requiring future premium payments by the diocese.

### **Gifts Not Requiring Director of Administration and Finance Review**

- Cash or cash equivalents
- Checks
- Marketable securities
- Gifts of personal property for use in diocesan offices or programs
- Life insurance policies except as noted above
- Artifacts for Bishop Baraga Association/Archives

Appendix B contains detailed descriptions and criteria for each gift category.

The diocese management and administrative officers authorized to accept letters of direction and amendments thereto and to negotiate and sign charitable giving agreements with prospective donors are:

- Bishop

- Director of Administration and Finance
- Development Director

Gifts to the diocese may not be directly or indirectly subjected by a donor to any material restriction or condition that prevents the diocese from freely and effectively employing the transferred assets, or the income derived there from, in furtherance of its purposes.

### **ACCEPTED GIFTS**

Donors shall receive an expression of sincere thanks and gratitude from the diocese and an acknowledgement of the gift in accordance with IRS regulations.

No public media exposure with respect to a donor's gift will be generated without the consent of the donor.

It is the policy of the diocese to convert all gifts to cash as soon as possible.

*(See additional Diocese of Marquette policy on the "Alienation of Property" and "Procedures for Sale, Lease or Acquisition of Property." Some restrictions or consent requirements may apply to accepting or selling gifted property.)*

The diocese reserves the right to make any or all investment decisions regarding gifts in accordance with its Investment Policy.

In making a gift to the diocese, donors give up all right, title, and interest to the assets contributed. In particular, donors give up the right to choose investments and investment managers, brokers, or to veto investment choices for their gifts.

Generally, costs associated with the acceptance of a gift such as attorney fees, accounting fees, other professional fees as well as other costs to establish a gift such as appraisal, escrow, evaluation, and environmental assessment fees will be borne by the donor.

The direct costs of administering outright and planned gifts of the diocese will be borne from the assets of the individual funds, except for those special circumstances as determined by the Director of Administration and Finance. Custodial, investment, and administrative fees will be paid from the respective funds in accordance with the diocesan guidelines.

If the Diocese accepts a gift from a donor who has specified a particular purpose for the gift, then the Diocese must use the gift for that purpose only. If the purpose for which the donor intends the gift does not match an existing fund of the Diocese of Marquette, then the understanding will be detailed in an executed gift agreement between the Diocese and the donor. If it becomes impossible for the original purpose for the gift to be honored due to changed circumstances, then the Diocese must use the gift for a purpose closely related to the original

designated purpose. A sample Gift Agreement is included in this policy in Appendix D.

All accepted unrestricted gifts are to be reviewed by the Bishop for a determination as to their designation. Unless otherwise directed by the Bishop, all unrestricted gifts will be designated for the Endowment Foundation of the Diocese of Marquette in the interest of building a stable and permanent source of funds to support diocesan programs, services and ministries.

**PUBLIC FUND RAISING**

Fundraising undertaken by donors in connection with the diocese requires special consideration. See Appendix C.

\* \* \* \* \*

By means of this general decree, I hereby establish the above policy as particular law within the ecclesiastical region of the Diocese of Marquette and as binding upon the faithful of the same Diocese of Marquette, according to the norms of the Code of Canon Law (1983).

March 20, 2004  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Most Reverend James H. Garland  
Bishop of Marquette

\_\_\_\_\_  
Ecclesiastical Notary

## **APPENDIX A**

### **Model Standards of Practice for the Charitable Gift Planner**

#### **PREAMBLE**

The purpose of this statement is to encourage responsible gift planning by urging the adoption of the following Standards of Practice by all individuals who work in the charitable gift planning process: gift planning officers, fund raising consultants, attorneys, accountants, financial planners, life insurance agents and other financial services professionals (collectively referred to hereafter as "Gift Planners"), and by the institutions that these persons represent.

This statement recognizes that the solicitation, planning and administration of a charitable gift is a complex process involving philanthropic, personal, financial, and tax considerations, and as such often involves professionals from various disciplines whose goals should include working together to structure a gift that achieves a fair and proper balance between the interests of the donor and the purposes of the charitable institution.

#### **I. PRIMACY OF PHILANTHROPIC MOTIVATION**

The principal basis for making a charitable gift should be a desire on the part of the donor to support the work of charitable institutions.

#### **II. EXPLANATION OF TAX IMPLICATIONS**

Congress has provided tax incentives for charitable giving, and the emphasis in this statement on philanthropic motivation in no way minimizes the necessity and appropriateness of a full and accurate explanation by the Gift Planner of those incentives and their implications.

#### **III. FULL DISCLOSURE**

It is essential to the gift planning process that the role and relationships of all parties involved, including how and by whom each is compensated, be fully disclosed to the donor. A Gift Planner shall not act or purport to act as a representative of any charity without the express knowledge and approval of the charity, and shall not, while employed by the charity, act or purport to act as a representative of the donor, without the express consent of both the charity and the donor.

#### **IV. COMPENSATION**

Compensation paid to Gift Planners shall be reasonable and proportionate to the services provided. Payment of finders fees, commissions or other fees by a donee organization to an independent Gift Planner as a condition for the delivery of a gift are never appropriate. Such payments lead to abusive practices and may violate certain state and federal regulations. Likewise, commission-based compensation for Gift Planners who are

employed by a charitable institution is never appropriate.

#### **V. COMPETENCE AND PROFESSIONALISM**

The Gift Planner should strive to achieve and maintain a high degree of competence in his or her chosen area, and shall advise donors only in areas in which he or she is professionally qualified. It is a hallmark of professionalism for Gift Planners that they realize when they have reached the limits of their knowledge and expertise, and as a result, should include other professionals in the process. Such relationships should be characterized by courtesy, tact and mutual respect.

#### **VI. CONSULTATION WITH INDEPENDENT ADVISORS**

A Gift Planner acting on behalf of a charity shall in all cases strongly encourage the donor to discuss the proposed gift with competent independent legal and tax advisers of the donor's choice.

#### **VII. CONSULTATION WITH CHARITIES**

Although Gift Planners frequently and properly counsel donors concerning specific charitable gifts without the prior knowledge or approval of the donee organization, the Gift Planners, in order to insure that the gift will accomplish the donor's objectives, should encourage the donor, early in the gift planning process, to discuss the proposed gift with the charity to whom the gift is to be made. In cases where the donor desires anonymity, the Gift Planners shall endeavor, on behalf of the undisclosed donor, to obtain the charity's input in the gift planning process.

#### **VIII. DESCRIPTION AND REPRESENTATION OF GIFT**

The Gift Planner shall make every effort to assure that the donor receives a full description and an accurate representation of all aspects of any proposed charitable gift plan. The consequences for the charity, the donor and, where applicable, the donor's family, should be apparent, and the assumptions underlying any financial illustrations should be realistic.

#### **IX. FULL COMPLIANCE**

A Gift Planner shall fully comply with and shall encourage other parties in the gift planning process to fully comply with both the letter and spirit of all applicable federal and state laws and regulations.

#### **X. PUBLIC TRUST**

Gift Planners shall, in all dealings with donors, institutions and other professionals, act with fairness, honesty, integrity and openness. Except for compensation received for services, the terms of which have been disclosed to the donor, they shall have no vested interest that could result in personal gain.

Adopted and subscribed to by the National Committee on Planned Giving and the American Council on Gift Annuities, May 7, 1991. Revised April 1999.

## **APPENDIX B**

### **Forms of Gifts to the Diocese of Marquette**

Gifts to the diocese take on a variety of forms. Many are outright gifts by living donors, either on a one-time or periodic basis. Others are testamentary gifts that take effect upon a donor's death or other forms of deferred gifts.

If the value of a gift other cash or marketable securities exceeds \$5,000, a donor is required to have a qualified appraisal performed and submitted to the IRS on Form 8283. If such gifts are sold within two years of receipt at a price other than the appraised value, Form 8282 must be filed by the diocese.

The diocese reserves the right to accept or reject any gift as it sees fit. It is the policy of the diocese to convert all gifts to cash as soon as possible.

#### **Cash**

The diocese accepts cash, checks, or money orders made payable to the Diocese of Marquette.

#### **Marketable Securities**

The diocese will add the net proceeds of a marketable securities contribution to a fund of the diocese. The diocese will govern the disposition of securities, and will make all decisions regarding the sale or retention of securities.

#### **Stock in Privately Owned Companies and Partnerships**

Donors wishing to make gifts of stock in a closely-held corporation or S corporation or a gift of a partnership interest, must have it valued by a qualified independent accounting or appraisal company prior to making a contribution. If it is immediately marketable, it will be sold. Otherwise, it will be held by the diocese until it may be redeemed or sold for cash.

Generally, the diocese does not accept gifts of general partnership interests due to the potential for unlimited liability.

The acceptability of a gift of closely-held stock, S corporation stock, or a partnership interest will depend on the ultimate financial liability of the diocese, the amount of management attention required, whether the gift provides minority or majority control, or whether the donor requires that such interest not be sold.

Consideration will be given to whether the S corporation stock or partnership interest generates unrelated business taxable income, if there is corresponding revenue to pay such taxes, and nature of the business, recordkeeping and accounting requirements, and how quickly the gift can be converted to cash.

### **Gift Annuities**

The diocese offers gift annuity contracts. Income beneficiaries are limited to two and must be at least 55 years old when entering into the contract. The charitable remainder interest must be designated for the diocese.

### **Life Insurance Policies**

The diocese will accept gifts of permanent life insurance policies if the diocese is named as owner or is assigned ownership in such policies. Policies continuing on a premium-paying basis will be maintained as such by the diocese so long as gifts are made to the diocese in the amount of the premiums due. Premiums can be of a reducing amount if dividends are directed toward future premiums. Should such premium gifts not be forthcoming, the diocese may, on the recommendation of the Director of Administration and Finance, elect:

- To have the diocese continue the premium payments.
- To surrender the policy in exchange for its cash surrender value.
- To invoke procedures under which the existing policy values can sustain the policy without further outlay of diocesan funds for premium. This can take on any of the following forms:
  - A. Change the dividends to Net (have the dividends pay future premiums)
  - B. Use the Automatic Premium Loan feature (borrow against the cash value to pay future premiums)
  - C. Use a combination of the two previous options (have the dividends pay as much of the premium as possible and borrow against the cash value for the remainder amount)
  - D. Change the policy to Paid-Up in which case, no more premiums will be due

The diocese discourages the contributions of life insurance policies subject to policy loans and reserves the right to accept or reject such policies as well as those carrying assignments to other entities. The diocese will consider its own interest and the best interest of the donor in the light of tax ramifications in determining on a case-by-case basis the acceptability of encumbered life insurance policies. Particular care will be given to problems of self-dealing, jeopardy investments, and unrelated business income in this regard.

### **Gifts Naming Multiple Beneficiaries**

From time-to-time, donors may wish to designate multiple beneficiaries of the proceeds from their life insurance policies, IRA's, other qualified retirement plans, pooled income funds, gift annuities, or other forms of gifts to the Foundation. Multiple beneficiaries should be named on the contract itself. However, if the diocese is selected as sole beneficiary and requested to distribute funds to other organizations, the following guidelines shall apply:

- A. The Director of Administration and Finance will take into consideration the amount of the total gift; the amount designated for the diocese, both discretionary and restricted; the added value to the diocese; and



in the case of life insurance policies, whether or not the premiums are paid up.

- B. In the case where the diocese becomes the sole owner of a donor's life insurance policy, the diocese subsequently has the exclusive right to change the beneficiary/distribute designations. It can then name the diocese or other charitable organizations as beneficiaries. These other charitable organizations must be described in Section 501(c)(3) and Section 170(b)(1)(A) of the Internal Revenue Code.

If a policy beneficiary/distribution designation is to be changed to a charitable organization other than the diocese, the diocese shall consider the charitable intent of the donor. It is understood, however, that a donor's recommendations in this regard are advisory and that the diocese, as owner of the policy, retains exclusive authority to direct the death benefits, maturity, and surrender proceeds of the policy.

### **Real Property**

If a donor wishes to contribute real property or an interest in real property to the diocese either directly or through a life estate arrangement, the Director of Administration and Finance shall consider all facts and circumstances in determining whether to recommend accepting the gift. Donors are always advised to confer with their own counsel to review the terms of the gift.

Following the Appendices is the checklist that will be utilized for all transactions involving real estate gifts.

See additional administrative policy on "Procedures for Sale, Lease or Acquisition of Property" in the diocesan policy manual.

### **Tangible Personal Property**

The donor will be advised whether the gift will be retained and used by the diocese or disposed of immediately.

### **Accounts Receivable**

The diocese will consider gifts of loans, notes, and mortgages, subject to review by the Director of Administration and Finance.

### **Artifacts**

The attached Deed of Gift will be completed and supplied to the donor.

## **APPENDIX C**

### **Public Fundraising for Endowed Funds of the Foundation**

The diocese is staffed to develop endowment and other funds through the acquisition of major and planned gifts and to cultivate new and existing relationships with donors. The diocese is not equipped to operate public fundraising events for its funds. In general, the diocese will administer a public fundraising event in association with a fund only under extenuating circumstances.

Public fundraising events refer to those special events that are intended to raise dollars for funds. For example, a golf outing, fundraising dinner, raffle, or other special event would be considered a public fundraising event. The term is not intended to encompass the annual giving to funds through the diocesan Upper Peninsula Catholic Services Appeal, annual Bishop Baraga golf tournament, and other solicitations for purely charitable purposes.

#### **Diocesan Approval of Events**

In the event the diocese approves a fundraising event, the guidelines listed below apply. These guidelines encompass the legal and other requirements the diocese is subject to and must be followed.

Before undertaking public fundraising events, the fundraising event coordinator will describe to the diocese each program, event, or other effort to raise money for the fund. The fundraising event coordinator will then obtain diocesan approval to proceed according to the diocesan guidelines. All uses of the diocese's name in advertising and promotion must be approved in advance by the Director of Administration and Finance.

#### **Responsibilities of the Diocese**

The diocese is held accountable for all public fundraising events related to offices and entities of the diocese. It can not delegate this responsibility to any other parties. In considering whether to approve the event, staff should take into account the following responsibilities:

- Budget and payment of expenses
  - Who will prepare a budget?
  - Who will be responsible for authorization for and payment of expenses?
  - Who will oversee the budget and ensure that the budget is followed?
  - Will the diocese assess a special administrative fee for this service?
- Compliance with policy and procedure

Is there a need for a special raffle or gambling license?  
Are the appropriate sales taxes being collected on items sold and who will field the sales tax return?

Is there a clear understanding that the expenses of fundraising events are not exempt from sales tax?

*(may not be applicable)*

- Liability covering the diocese  
Is there a need for additional general liability or other insurance for the event?  
Should a letter of credit or a written personal guarantee be provided?
- Acknowledgements  
If the contributors received goods or services in return for their payment, who will determine the appropriate charitable portion of the payment so that the correct tax acknowledgement will be prepared?
- Management of money and property received from the event  
Will all checks be made payable to the diocese?  
Where should checks and other forms of payment be sent?  
If someone else is collecting cash, what safeguards need to be in place?
- Application on income and principal to charitable uses  
Can the proceeds be administered in the manner in which it is advertised?

**APPENDIX D**

Sample Gift Agreement

The following is an agreement and understanding between the Diocese of Marquette (Diocese) and  (donor name)  (Donor).

The donor hereby delivers to the Diocese  (description of donated property) .

This donation is to be used to establish the  (name of fund)  Fund.

The principal of the gift will be invested in the Diocesan Investment Pool and not be spent. Income generated from the fund can be used to *(describe purpose of fund)*:

The diocesan Director of Administration & Finance will be responsible in administering the distribution of the fund in accordance with the donor's intentions.

Executed on:  (date)

Executed by:

Diocese of Marquette

Donor

Most Rev. James H. Garland

*(donors name)*

## Real Estate Acquisition Checklist

Description of property: \_\_\_\_\_

<u>Task</u>	<u>Completed By</u> <u>And Date</u>
<p><b>1. Considerations Before Acceptance of Gift</b> Request that the donor pay all costs associated with acceptance of property including title insurance policy, survey, environmental, and legal costs.</p> <p>Review gift acceptance policies</p> <p>Advise the donor to confer with their own counsel to review the terms of the gift.</p>	
<p><b>2. Evidence of Clear Title</b> Obtain title insurance commitment before acquiring title</p> <p>Items to deliver to title company if available:</p> <ul style="list-style-type: none"><li>a. Recent prior title policy</li><li>b. Abstract</li><li>c. Condominium project<ul style="list-style-type: none"><li>Master deed</li><li>Letter from association verifying status of assessments</li></ul></li></ul> <p>Obtain title insurance policy after taking title</p>	
<p><b>3. Evidence of Boundaries</b> Assess need for survey</p> <ul style="list-style-type: none"><li>a. Obtain recent survey and review</li><li>b. Obtain mortgage report and review</li><li>c. Determine if any improvements subsequent to survey</li><li>d. Determine if surrounding properties are improved</li></ul> <p>Obtain a survey</p> <ul style="list-style-type: none"><li>a. Residential properties – stake survey</li><li>b. Commercial properties – ALTA survey</li></ul>	
<p><b>4. Evidence of Condition of Property</b> Environmental</p> <p>Obtain Phase I Environmental Site Assessment</p> <p>Have Phase I reviewed by attorney</p>	

Obtain Phase II sampling if any “recognized environmental conditions” were identified in Phase I

Have Phase II reviewed by an attorney

Obtain Baseline Environmental Assessment if property meets definition as a “facility” – must be performed within 45 days of transfer

Have BEA reviewed by MDEQ

Obtain sellers disclosure statement

Obtain building inspection

Check with local government for code/ordinance violations

Obtain well/septic inspection

#### **5. Rental Properties**

Confirm zoning compliance with local government including use, setbacks, parking, square footage, and city registration

Obtain copies of leases

- a. Verify Lessor right to assign
- b. Verify no pending real estate commissions
- c. Verify existence and amount of security deposits

Obtain copies of service contracts and management contracts

Obtain estoppel certificate

- a. Verify no lessor defaults
- b. Verify no oral agreements

Obtain copy of approved site plan

#### **6. Transfer of Title**

Obtain deed transferring title – usually prepared by donor’s attorney

Record deed with county clerks office

Obtain assignment of lease

File Property Transfer Affidavit

File Real Estate Transfer Tax Valuation Affidavit

Sign Form 8283 for donors tax return

**7. Sale of Property**

Listing of property with broker – suggest no more than 10% commission and 6 months in length with a three month protected period following listing term expiration

File Form 8282 if property sold within 2 years of gift.

# Deed for Gifts of Artifacts

Given To: Diocese of Marquette Archives  
347 Rock St. Marquette, MI 49855  
(906) 227-9117 edelene@dioceseofmarquette.org

Date: \_\_\_\_\_

Given By: \_\_\_\_\_ Address: \_\_\_\_\_  
Contact: \_\_\_\_\_

ARTIFACT: \_\_\_\_\_

Restrictions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Description:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed: \_\_\_\_\_

Witness: \_\_\_\_\_

Date: \_\_\_\_\_

Accession # \_\_\_\_\_  
Cataloged: \_\_\_\_\_