13.0 PLANNED GIFTS

Planned or deferred gifts fall into five categories: bequests, life income plans, charitable lead trusts, life insurance and retained life estate agreements. Given the projected transfer of wealth nationally and the demographics of the CSUDH community, these kinds of gifts have an enormous income potential to the University. All development officers, deans, directors and administrators involved in the development process should have a basic knowledge of planned giving and look to ways to vigorously promote planned gifts to alumni, faculty and staff, retired faculty and staff and other potential donors.

13.1 Bequests

A. Bequests offer the greatest potential for private funds for the benefit of CSUDH. Nearly every gift that a living donor can make has its counterpart in a list of testamentary gifts. Direct unencumbered bequests provide the University the full value of what was bequeathed to it, and provide the testator's estate with a charitable deduction for the same value. The Associate Vice President of Development is available for personal consultation on gifts of bequests to individuals, their attorneys or other financial advisors.

B. Gifts of bequests will be accepted under the same terms as outright gifts as described in Sections 8-10.

C. Attempts shall be made to discover bequest plans whenever possible in order to determine whether inappropriate property has inadvertently been left to the University. For example, intended bequests of property other than cash or marketable securities should be brought to the attention of the Associate Vice President, Development so the donor may be advised concerning how his/her plans conform to the University's policy.

D. When gifts of property from the estate of deceased donors are not acceptable, the legal counsel of the University shall communicate this decision to legal representatives of the estate as soon as possible.

E. All wills, bequests or estate plan documents which provide funds or other assets for the use of CSUDH must be made payable to, or transferable to the CSUDH Foundation, Inc., or the approved corporate body is to receive, manage and disburse such assets.

F. Depending on the size of unrestricted bequests, all such bequests will be added to the endowment fund of the Foundation.

G. All gifts received for restricted endowment purposes, when accepted, will be accepted only on the condition that, should the purpose for which the funds are provided cease to exist, the Foundation Board or its successor shall allocate the income from those funds to purposes as near as possible to the original intent of the donor. Such provisions should be provided in all wills and devices as far as possible.

H. There are four ways a bequest can be made to the University

1. A fixed amount of cash or securities, certain personal property or a percentage of the estate can be given.

2. In a residual bequest, after other beneficiaries receive a designated portion of the estate, the remainder of the estate is left to the University.

3. A contingent bequest can be made where the University will receive a portion of the estate only if the named beneficiaries predecease the maker of the bequest. This form is often selected by those who must provide for young families.

4. A testamentary trust bequest creates a trust and the income or a stated amount is paid to the beneficiaries.

   On the beneficiaries' death, the University receives the use of the gift. This option may actually increase life income for beneficiaries, since it reduces the amount of the estate subject to estate taxes. According to University policy, only two beneficiaries can be named.

13.2 Life Income Plans

A. Life income plans are irrevocable gifts which include charitable gift annuities, charitable remainder trusts (CRTs), and pooled income funds. Pooled income funds will not be discussed in this document until it becomes a viable planned giving instrument for CSUDH.

B. Charitable Gift Annuities

The charitable gift annuity is a fairly uncomplicated form of life income gift. A charitable gift annuity is partly a charitable gift and partly a purchase of an annuity contract in which the donor transfers some asset to the University and the University agrees to pay the donor (and if desired, one other beneficiary) a fixed annuity for life.

1. A minimum gift of $5,000 is required to establish a charitable gift annuity.
2. The charitable gift annuity is established with and guaranteed by the CSUDH Foundation whose bonded assets guarantee the annuity.
3. A charitable gift annuity provides the donor with an immediate tax deduction and regular income payments for life.
4. The amount of the annuity payment is determined by four factors:
   a. The dollar value of the annuity gift;
   b. The age and number of annuitant(s);
   c. The annuity rate selected; and
   d. The federal "discount rate" in effect at the time of the gift.
   In most cases, the annual annuity payment will be in the range of 6.5% to 10% of the value of the donated asset.
5. The tax deduction is also a function of the age of the annuitant(s), annuity rate selected, and the federal discount rate selected.
6. Charitable gift annuities are most advantageous for donors who are in their mid-sixties or older.

For information and assistance on charitable gift annuities, contact the Office of Development.

C. Charitable Remainder Unitrusts and Charitable Remainder Annuity Trusts:

CRTs are separate legal entities, and their obligations are limited to their assets. Trusts file their own returns, make all payments from their assets and must have a federal trust number. Trusts make payments to beneficiaries under strictly hierarchical rules. The sources of possible income payments include: 1) income, 2) realized capital gain, 3) tax exempt income, and 4) original principal.

CRTs may be funded with real property, cash or securities. Property passed to the plan is free of capital gains tax and is credited to the plan at its current full fair market value, regardless of cost basis and regardless of reduction rules affecting income tax deductions.

CRTs should be encouraged as a way of making gifts to the University. They should not be marketed as tax avoidance devices or as investment vehicles since such action may violate federal and/or state regulations. All disclosures required by state and federal regulatory agencies shall be made in a thorough and timely manner.

CRTs fall into two broad categories: Charitable Remainder Unitrusts (CRUTs) and Charitable Remainder Trusts (CRT).

Charitable Remainder Unitrusts (CRUTs):

1. Unitrusts must pay income beneficiaries a fixed percentage of trust assets, which is based on the trusts' fair market value. That fixed percentage cannot be less than 5%. Thus, a unitrust pays a variable amount to the income beneficiaries (due to annual fluctuation in the values of trust assets), rather than on a sum certain that must be paid by an annuity trust. The University assesses that value annually on the first business day of each year. Unitrusts have a stated maximum life of 20 years.

2. Since all earnings in excess of the required payments are reinvested in the trust, growth in annual income depends on having an annual payment that is low enough to have some excess earnings available for reinvestment.

3. There are three types of unitrusts, plus an option known as a "Flip" Unitrust:

   a. <u>The Standard Unitrust:</u>

      This is the most common version and allows the trustee to invade the principal if income is insufficient to meet the required payment.

   b. <u>Net Income Unitrust:</u>

      In this version, the donor receives the lesser of the stated percentage payment or the net income earned. This avoids invading the principal. This type is especially appropriate for donors who are limited to funding the trust with real estate or other non-income producing or hard to sell assets. Also, net-income unitrusts are appropriate for donors who do not want their trust to pay them anything for some years.

   c. <u>Net Income Unitrust with Makeup Provisions</u>:

      This version is similar in all respects to the item b. except for one very important difference. If the trust earns less than the set percentage payment in one year, only that net income is paid. However, if in a later year the trust earns more than the stated percentage, the trust will pay as much income as necessary to bring all prior payments up to the maximum amount which should have been paid in those prior years had income been sufficient.

d. <u>Flip Unitrust</u>

Recent legislation allows the Net Income Unitrust with Makeup trust formed with an illiquid asset such as real estate to drop the net income provision and become a Standard Unitrust when the assets are sold and begin to generate income. This is a permanent change. After the flip the trust pays only the Unitrust amount and no deficit makeup. Currently, legislation and qualified advisors must be consulted.

4. The minimum amount required to establish a unitrust is $50,000 although the amount may vary according to the practices of trustees selected, providing the University has granted approval for a lesser amount. No charitable remainder trust shall be encouraged where the net present value of the remainder interest in the trust is less than $50,000 or 50% of the value of the funds transferred to the trust.

5. Additional funds may be added to the unitrust with a minimum of $5,000 per addition.

6. The donor chooses the trustee or co-trustees for the trust. The University will not serve as sole trustee of a unitrust that benefits the institution. If the trust is to be funded with property, within six (6) weeks prior to the gift, the Associate Vice President, Development will identify a limited number of corporate fiduciaries who hold such trusts. Only when specifically asked may any corporate fiduciary be recommended to a donor. Donors will be encouraged to interview potential trust officers and make their own informed choices. The fees for management of a unitrust will not be paid by the University unless approved by the Associate Vice President, Development.

7. Unitrusts which name individuals older than 60 years of age as income beneficiaries and which name one or two income beneficiaries will be encouraged. Exceptions to this guideline may be made by the Associate Vice President, Development.

8. No representation shall be made by any employee or other persons acting on behalf of the University as to the manner in which charitable remainder unitrusts will be managed or invested by a corporate fiduciary without the prior written approval of a representative of the fiduciary.

D. Charitable Remainder Annuity Trusts:

1. Annuity trusts share many of the rules and conclusions applicable to unitrusts. Unlike unitrusts, annuity trusts make the same payments, year in and year out. This fixed dollar payment initially is determined as a percentage of the value of the assets contributed to fund the trust. Therefore, everything is dependent upon the initial fair market value of the assets in the trust. Thereafter, the value of the trust assets is irrelevant, so long as there are assets enough to make the annual payments.

2. Once the trust is established, additional assets cannot be transferred to the annuity trust.

3. The minimum amount required to establish an annuity trust is $50,000.

4. The donor chooses the trustee or co-trustees for the annuity trust. The University will not serve as sole trustee of an annuity trust which benefits the institution.

5. The trust should be funded with cash, equities or bonds.

6. The Associate Vice President of Development will identify a limited number of corporate fiduciaries who hold such trusts. Only when specifically asked may any corporate fiduciary be recommended to a donor. Donors will be encouraged to interview potential trust officers and make their own informed choices.

7. The fees for management of a charitable remainder annuity trust will not be paid by the University unless approved by the Associate Vice President of Development.

8. Annuity trusts shall be encouraged which name as income beneficiaries individuals older than 60 years and which name one or two beneficiaries. Exception to this guideline may be made by the Associate Vice President of Development.

9. No representation shall be made by any employee or other persons acting on behalf of the University as to the manner in which charitable remainder annuity trusts will be managed or invested by a corporate fiduciary without the prior written approval of a representative of the fiduciary.

13.3 Charitable Lead Trust

In essence, this trust is the reverse of deferred giving. A charitable lead trust is a trust arrangement that provides an income payment to the University at some designated rate for the donor's life or over a pre-established number of years. At the conclusion of the payment period, the trust assets are returned either to the donor or to someone designated by the donor. Each course has different tax consequences.

A. If the donor designates himself/herself as the eventual, recipient of the trust assets, he/she has given up his/her interest in the income value of the trust assets, and so earns an income tax deduction.

B. If the donor designates someone else as the eventual recipient of the trust assets, that individual has given up the benefit of what would have been a gift or bequest made in their favor; thus, a gift or estate tax deduction earned from this gift.

C. In reality, lead trusts come in four different forms, the result of combining two different methods for calculating payments with two alternative classes of non-charitable remainder beneficiaries. In other words, income paid by a lead trust can be either a unitrust or an annuity trust amount, and either the donor or someone else can be designated to receive the trust assets at the end of the trust term.

   1. If the donor is designated to receive the trust assets, the lead trust is called a "grantor trust", and under grantor trust rules, the donor must pay income taxes on income earned by the trust and paid to the University.

      This makes grantor trusts unattractive to most donors, unless they are able to fund the trust with tax-exempt property, or unless for some reason the value of the tax deduction earned in the year of the gift outweighs the burden of future taxes due.

   2. Far more common is the "non-grantor" version of the lead trust. Non-grantor lead trusts have some beneficiary other than the donor named to receive the trust assets when the trust ends; non-grantor lead trusts do not generate any income tax bill to the donor (or anyone else) for income earned by the trust and paid to the University. Because non-grantor trusts can shield assets from estate and gift tax bills, they are especially valuable to those with large estates.

D. The Charitable Lead Trust may be established with a minimum gift of $100,000.

E. The Charitable Lead Trust can usually be funded with cash or securities (tax exempt securities may be warranted as stated above).

13.4 Life Insurance

The University encourages donors to name the University to receive all or a portion of the benefits of life insurance policies which they have purchased on their lives.

A. New or existing policies may be given outright, or the University can be named the owner and beneficiary of an existing policy.

B. The University will accept fully paid life insurance policies in which the donor has named the University to receive all or a portion of the benefits of the insurance policy. The donor's tax consequences hinge on whether the policy's ownership has been endorsed over to the University, and whether the benefits have been irrevocably assigned to the University.

C. A donor who irrevocably transfers life insurance to the University can claim income tax deductions for the policy's cost basis or cash surrender value, whichever is less. The donor can never claim an income tax deduction for the policy's face value.

D. Naming the University as a beneficiary on the policy is not sufficient to generate an income tax deduction for the donor because the donor can change his/her mind at some later date. To be entitled to a deduction, the donor must make the University both beneficiary and owner of the policy.

E. Upon receiving a paid-up policy, the University, as owner, can surrender it and obtain the cash value or keep the policy until the death of the donor.

F. If the donor takes out a new policy with the University as the irrevocable owner and beneficiary, the donor may pay the premium or give the premium money to the University ("pass through") with the University paying the premiums. The "pass through" is preferred by the University because:

1. When the donor makes a cash gift to the University for the premium amount (assuming the University is under no obligation to apply the gift to the premium payment), the donor receives all the benefits both in tax savings and in the personal satisfaction of making an outright gift;

2. The donor maintains contact with the University and can be acknowledged properly as each gift (payment) is made; and the University maintains control of the premium payments and the policy.

G. The University will not accept gifts of cash from donors for the purpose of purchasing life insurance on the donor's life.

H. No insurance products may be endorsed for use in funding gifts to the University without the approval of the Vice President, University Advancement.

I. Lists of the University's donors will not be furnished to anyone for the purpose of marketing life insurance benefiting donors and/or the University as this practice constitutes a potential conflict of interest and may be construed as involvement in the marketing of life insurance.

13.5 Retained Life Estate Gifts

A. The retained life estate agreement (RLEA) is a gift of a donor's home, a vacation home or a farm including a residence.

B. The donors irrevocably relinquish full or part ownership of their home in exchange for the right to enjoy the use of the property as long as they wish. For this exchange, the donors receive an income tax deduction. The donors are responsible for maintenance, taxes and insurance on the property as long as they occupy it under the RLEA unless there is an agreement stating otherwise approved by the Vice President, University Advancement and the Educational Trust Board.

C. Life estate gifts will be accepted with the approval of the Vice President, University Advancement and the Educational Trust Board in situations where the asset involved appears to be a minor portion of the donor's wealth (estate), and the above mentioned officers are satisfied that there has been full disclosure to the donor of the possible future ramifications of the transaction.

D. The donor may relinquish his or her retention of the estate at any time and give the remainder to the University.