

## **Miami University and Miami University Foundation Faculty and Staff Gift Policy**

Miami University and Miami University Foundation, hereinafter collectively referred to as Miami, encourages faculty and staff donations. This policy establishes Miami University and Miami University Foundation's policy on faculty and staff giving to accounts which they have signing authority over or accounts which they benefit directly from.

The Division of University Advancement is responsible for determining whether money donated to Miami may be counted as a gift per the Miami University Policy and Information Manual, Section 17. Section 170(c) of the Internal Revenue Code defines in broad terms the conditions under which any donation may be taken as a deduction for income tax purposes. In the language of the Code, money given is deductible only "if the contribution or gift is made for exclusively public purposes," and only if no part of the fund into which the gift is placed "inures to the benefit of any private shareholder or individual." Usually money that may not be deducted is not considered a gift.

To take a few examples the following types of restricted funds given to Miami would not be considered gifts:

- Funds to support the salary of the donor
- Funds to support salaries of employees of the donor
- Funds to pay for consumer goods to be used by the donor
- Funds to pay for travel by the donor

These restrictions also apply even if the expenditures are of a sort that might have been supported by Miami from other funds. For example, the following would not be considered gifts:

- A fund that is intended to support research or professional travel on the part of a donor.
- A fund that is intended to purchase research or instructional materials to be used in a faculty member donor's laboratory, office, or home.
- A fund that is intended to support staff or coworkers in the donor's own research program.

These restrictions apply even if only a portion of the funding is intended for these purposes.

The critical test is the intention of the funds and the existence of any condition that links the funds to expenses that will be used for the faculty or staff member's own benefit. Money given to a departmental discretionary fund that is fully controlled by the chair of the department can be used to support the research or teaching of *any* faculty member, including the donor. However, a faculty member who gives money to his/her department when an explicit or even implicit understanding that some portion of the funds will be used to support his or her own research or travel will not be given gift credit. Departmental records that keep track of the amounts of faculty donations at the same time that they record expenditures in

support of those same faculty members would be regarded by the IRS as *prima facie* evidence that the donations would not be perceived as gifts.

While it is not the policy of Miami to accept contributions of any sort to accounts that are controlled by the faculty/staff member, it is important to bear in mind that this is a matter of Miami policy and not tax law. From the perspective of the tax code, it is not the activities that are illegal. What is not legal is counting the donation as a gift for tax purposes. Thus whereas it is possible under certain circumstances to negotiate with the Vice President of University Advancement exceptions to this policy, there is no possibility of granting exceptions to the deductibility conditions embodied in the tax code.

Gift receipts should not be issued if the money is used for any of the kinds of activities listed above. Of course, University Advancement is not always in a position to monitor the uses of funds after they are donated, and so it is always possible that gift receipts are issued which, after the fact, prove not to have been appropriate. Under the tax code, it is the responsibility of the taxpayer to meet these tests before entering donated money as a gift whether or not a gift receipt has been issued.

To qualify as a charitable contribution for which University Advancement will issue a gift receipt, a transfer of funds or property to Miami must be “to or for the use of” Miami in conducting its educational, research and service missions directly and through its various entities. Although payable to the Miami University or Miami University Foundation, transfers that are directed to, or for the use or benefit of particular, named individuals are considered by the Internal Revenue Service as private welfare, not qualifying for the charitable gift.

Consequently, Miami University or Miami University Foundation will not issue a gift receipt for transfers to an account over which the transferor/donor has expenditure control. If the fund to which the money is added is under the direct control of the donor, the money will be reflected as a non-gift due to its characterization by the Internal Revenue Service Code, **whatever** the funds may in fact be spent on. As in the case of the Internal Revenue Code, the issue remains one of a gift or non-gift for income tax purposes. There is no suggestion that gifts that fail this test are inappropriate in themselves.

Questions about this policy should be directed to:

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