

## **Lehigh University Faculty and Staff Gifts**

Lehigh University encourages faculty and staff donations and recognizes the right of a donor to specify a preferred restricted purpose for his/her gift. However, in recognition of the Internal Revenue Code's strict requirements for the University's tax exemption and for donor deductibility of gifts, it is important to implement University procedures for the appropriate treatment of faculty and staff gifts, particularly when a request is made to direct a donation to Banner indexes over which the faculty/staff member has signature authority or from which he/she may derive an economic benefit.

The Lehigh University Office of Advancement responds to prospective donor questions about the appropriate form and purpose of a gift under the terms of its Gift Acceptance Policy. In addition, Section 170 of the Internal Revenue Code defines a charitable contribution and establishes the terms that must be met in order to allow gift deductibility. Key to the deductibility of a gift is that it has a public, rather than private, benefit. The donor cannot maintain control over the donated funds: they must be applied for the University's charitable public purposes. A donor may contribute funds for a particular purpose, but the University must maintain control and discretion over the actual use of the funds. Donor control presents problematic issues of potential private inurement, earmarking for a specified individual's benefit, lack of control by the University with respect to disbursements, and a potential return benefit to the donor in an amount equal the gift.

The following are examples of restricted gifts given to the University that would not be considered tax-deductible gifts. Please note that the non-deductibility of the gift applies even if the expenditures are of a sort that would have been supported by the University when funded by other sources and even if just a portion of the funding is intended for these purposes:

- A fund intended to support professional travel by the donor
- A fund intended to purchase research or instructional materials to be used in the donor's laboratory or office
- A fund that is intended to support the donor's own program or research

In order to address the above concerns, the following rules are in effect for the processing of a faculty or staff member gift:

- 1) The Office of Advancement will not issue a gift receipt for gifts that are directed to an index over which the donor has expenditure control, regardless of the ultimate use of the funds. Gifts must be deposited in an index that is under the control of a University employee who is not influenced by or under the donor's

supervision. That employee must have responsibility for the disposition of the funds.

- 2) If scholarships/fellowships/awards are to be disbursed from the gifted funds, the recipients of the scholarship/fellowship/award must be selected by a committee appointed by a disinterested party. In addition, neither the donor nor the donor's family members would be eligible recipients of the funds.
- 3) The gift funds cannot be directed to students or other employees who are involved in the donor's personal activities or professional activities of a commercial nature.
- 4) Gift funds may not be applied to any portion of the donor's salary or to travel expenses attributed to the donor.
- 5) Senior staff in the Advancement Office may grant an exception to this policy if the donor has job responsibilities associated with a significant fundraising campaign and his/her gift is determined to be insignificant in relation to the total campaign. For example, an exception could be granted for Advancement Office staff gifts to the Annual Fund.

Under the Internal Revenue Code, it is the responsibility of the taxpayer to ultimately determine the deductibility of a gift, whether or not a gift receipt has been issued. Therefore, all faculty or staff donors are encouraged to consult with their personal tax advisors to determine if their charitable contribution is tax deductible.