Gifts, Grants or Whatever

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At the end of this course, you will be able to:

- Name the characteristics of a gift
- Correctly classify awards
- Understand gift processing at UCI
- Describe the role of Gift Administration
- Describe the role of the Office of Research Administration
- Determine when financial disclosure is appropriate and facilitate the process
- Locate and use key policy resources
- Manage special issues
Learning Objectives

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What is a Gift?
Examples of Gifts

- Cash and cash equivalents
- Securities
- Real estate
- Trusts and other deferred gifts
- Gifts-in-Kind (that further the University’s Mission!)
  - Works of art
  - Computer software/hardware
  - Equipment
  - Books and other types of collections
  - Any item that can be converted to cash
General Definition of “Gift”

Merriam-Webster’s Collegiate Dictionary

“Something voluntarily transferred by one person [or entity] to another without compensation”
Legal Definition of “Gift”

Black’s Law Dictionary

“A voluntary transfer of property to another made gratuitously and without consideration. Essential requisites of a gift are: capacity of the donor, intention of the donor to make a gift, complete delivery to or for donee, and acceptance of gift by donee.”
Charitable Contribution

“A charitable contribution is a donation or gift to, or for the use of, a qualified organization. It is voluntary and is made without getting, or expecting to get, anything of equal value.”

IRS Publication 526
Gift Characteristics

Qualifications of a Charitable Gift

- A gift is the **irrevocable transfer** of property or money...

- to a **qualified Organization - 501(c)3**

- that has **no donor-imposed Conditions or Controls**.

- It must be **Voluntary**.

- **No Strings attached**: It must be made without getting, or expecting to receive, anything of equal value.
Control Issues

- Once a gift, always a gift
  - Cannot give a gift back – IRS 1099 must be sent to donor if gift returned
  - Retain and redirect a gift after a program/purpose is cancelled

- Scholarship/Fellowship Selection
  - Donor’s Involvement
    - Cannot have majority vote
    - Control based upon position or power

- Unreasonable Institutional Actions
  - Cannot require UCI to take any action it would not otherwise take in accepting the gift
    - Fire faculty/coaches
    - Instate new programs not beneficial to UCI
A Tax Deductible Gift is NOT:

- A payment to an individual, including tuition (other than by pre-approved foundation grant procedures)
- A payment that is conditional on a future event or the substantial probability of return to the donor or another individual (i.e., getting a football team, firing a coach)
- An involuntary payment on behalf of a charitable organization (i.e., a payment to a charity in lieu of a court fine)
- Expenses associated with conveying a gift (i.e., appraisal fees, insurance, etc.)
Other Examples of Non Tax Deductible Gifts

- Payments to attend events
- Purchase of auction items at Fair Market Value (FMV)
- Raffle tickets/Opportunity prizes
- Donation of “partial interest” property
  - Hotel rooms
  - Hardware (no ownership)
  - Donor’s vacation home
- Gifts of time or service ➔ NOT Tax Deductible!
  - Attorney’s time
  - Caterers
  - Use of office space
  - Vacation home
  - Use of software
• IRS Definition:
  - "A payment made partly as a contribution and partly in consideration for goods and services provided to the payor by the donee organization."
  - The value of the donor benefit is a key factor determining the actual value of the gift.
  - Token item’s value is modified annually by the IRS.
Quid Pro Quo Contribution

- Services, premiums or items provided in exchange for a gift
  - library card, mug, t-shirt, event/sport tickets
  - 2005 IRS insubstantial benefit rules:
    - Low Cost Token Items
      - total cost of all items cannot exceed $8.30 for gifts of $41.50 or more
      - Must bear UCI's name or logo
    - More substantial benefits
      - Fair market value of all items cannot exceed 2% of the contribution given or $83—whichever is less.
- Athletics 80/20 rule in terms of preferred seating.
- Advertising/marketing
• Program Revenue
  – Payment made to attend an event (whether or not donor attends!) unless denied in advance at the time of the gift.
  – Payment may include gift above the FMV of the goods received (i.e., dinner).
  – Fair market value (FMV) is defined as the suggested retail value (good faith estimate)
Show Me the Money Tree
Case Study

The UCI Medal Ceremony

Reservations are limited. Please respond by Friday, October 7, 2005.

If you would like to be a UCI Medal Sponsor, please accept my your contribution:

☐ 40th Anniversary Sponsor: $40,000 | Premier Table for Twelve
☐ Gold Sponsor: $25,000 | Premier Table for Ten
Proceeds will be designated to the school of your choice: _____________________________

☐ Silver Sponsor: $10,000 | Table for Ten
☐ Bronze Sponsor: $5,000 | Table for Ten

Sponsor name(s) to appear in the program: [_________]
Please list names of table guests on reverse.

☐ I would like to reserve _____________ ticket(s) at $500 per person.
☐ I am unable to attend; however, I would like to make a contribution of $__________.
☐ Enclosed is my check for $__________ (payable to The UCI Foundation).
☐ Charge $__________ to my: ☐ VISA ☐ MasterCard ☐ Amex ☐ Discover

☐ I require auxiliary aids and services due to a disability. Please contact me.

For more information, please call the UCI Medal Office at (949) 824-7939.
All contributions over the value of the dinner ($70 per person) are tax deductible to the maximum amount allowed by law.

Is this a gift?
What dollar amount is the gift?
Show Me the Money Tree
A company graciously donates $100,000 in employee and equipment support for a UCI special event on July 4th.

Show me the money!
Is this a gift?
Does it further UCI’s mission?
How may it be recorded?
Show Me the Money Tree
Members of your school’s external advisory board are reimbursed $2,500 for their travel expenses to attend board meetings at UCI. Several members offer to decline the reimbursement and give it to UCI as a gift.

Is this a gift? Does it further the mission of UCI? Who is the donor?
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To the Joint Legislative Audit Committee
Reviewed privately supported research at UC
Findings - funds processed as gifts should have been classified and processed as grants or contracts
Generated great concern related to misuse of public funds
Revisions to UC's procedures and practices in 1980
Classifying Awards - Grants

- Why grants are not gifts
  - Awards of financial assistance
  - Support a scope of work envisioned by faculty
  - Period of performance
  - Detailed budget
  - Technical and financial reports
  - Revocable in whole or in part
Classifying Awards - Contracts

- Why contracts are not gifts
  - Procurement/purchasing action
  - Narrowly defined scope of work
  - Period of performance
  - Detailed budget
  - Specific deliverables and/or milestones
  - Financial and technical reports
  - Specific rights reserved by sponsor
What Makes Them Different From Gifts?

- Are grants and contracts voluntary?
- Are they given without expecting something in return, i.e., with no quid pro quo?
- Are they free from terms and conditions?
- Are the awards irrevocable?
- NO!
When a Gift is not a Gift

- Advancement-Gift Administration evaluates the gift documents
- If questions, forwards documents to Office of Research Administration for classification
  - Gift
  - Grant or Cooperative Agreement
  - Contract
ORA Classifies Awards

- Review on case-by-case basis
  - Exercise reasonable judgment
  - Cannot base judgment on presence or absence of a single characteristic or criterion
  - Consider donor's intent
- Review supporting documentation *in toto*
  - Words used by donor may have a special or different meaning to the donor
ORA Review Outcomes

- If not gift, ORA notifies faculty member and department administrator
  - Provides guidance for processing as grant/contract
  - Works with Development Officer to facilitate communication
  - Strives to maintain relationship with the donor/sponsor
Show Me the Money Tree
e-Bucks, Inc. sends UCI a check in the amount of $98,152.68 to support the research of Professor Periodic Element in the Department of Chemistry. Professor Element tells you that the check arrived without a cover letter. The check stub memo states that the funds are for the professor’s “…research project on the dynamics of state-to-state photodissociation….”

Is this a gift?
Show Me the Money Tree