



WESTERN COVER SOCIETY

FOUNDED 1950

Publisher of the Western Express, Research Journal of Early Western Mails

GIFT ACCEPTANCE POLICY

The Board of Directors of Western Cover Society (the "Society") adopts the following guidelines for accepting gifts from donors.

- I. **Authorization.** The President or any other person or persons designated by the Society's Board of Directors from time to time, are authorized to accept gifts made to the Society and to approve and execute, on behalf of the Society, all agreements with donors in furtherance of the Society's charitable purposes as set forth in the Society's Articles of Incorporation and Bylaws. Acceptance of gifts other than cash or marketable securities shall require two signatures. The Society reserves the right to refuse any gift.
- II. **Policies Regarding Assets Used to Make Gifts.**
 - A. **Gifts of Cash and Publicly Traded Securities.** The Society will accept gifts of cash and publicly traded securities in any amount.
 - B. **Other Business Interests.** The Society will accept gifts of stock, options, warrants and other interests in closely held "C" corporations, "S" corporations, limited partnership interests and limited liability company (LLC) interests, as well as notes, trust deeds and similar assets. All such gifts will be evaluated on a case-by-case basis. Valuation of the gift for tax purposes is the responsibility of the donor. The Society will not provide a value for the gift in its acknowledgment letter to the donor.
 1. **Gifts with Adverse Consequences for the Society.** The Society will not accept a business interest that will subject the Society to a liability, including cash calls on limited partnerships or LLC's or other liabilities that could have adverse consequences for the Society, unless favorable advice of legal counsel is secured.
 2. **Sale of a Business Interest.** In the case of a business interest that is to be sold, the Society generally will not join in or participate in the issuance of warranties, representations, indemnification agreements, or covenants not to compete unless favorable advice of legal counsel is secured.
 3. **General Partnership Interests.** General partnership interests generally will not be accepted by the Society because they can result in significant legal and tax liability to the Society. Structuring of the transaction to avoid such liabilities may be considered by the Society.



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4. **Cost of Gift.** If a designated fund is created by the gift, the Society will charge the resulting fund the Society's costs associated with accepting the business interest (*e.g.*, unrelated business income taxes, attorney fees, etc.). The Society may request that the donor contribute additional cash or other liquid assets to the fund to pay such costs.
- C. **Life Insurance.** The Society may be designated as a primary or successor beneficiary of a life insurance policy owned by the donor. Insurance policies must have a minimum face value of ten thousand dollars (\$10,000) and the Society must be irrevocably named as owner and beneficiary of the policy. As a condition to accepting a gift of a life insurance policy on which premiums remain due, the Society will require the donor to enter into a legally binding pledge to contribute to the Society, at least thirty (30) days prior to each premium due date, an amount sufficient to pay the premium. Premiums may be paid from accrued dividends or accumulated cash value if sufficient and so stipulated by the donor. The Society shall have the right to surrender, exchange or sell any policy at any time. If the Society is notified that a policy is to be terminated for non-payment of premium, the Society may elect to continue to pay such premiums from its unrestricted assets or use the accrued cash value of the policy to pay the premium. The Society will not accept gifts of insurance that are related to what are commonly referred to as a "charitable reverse split dollar" or "charitable limited partnership" plan, or any other controversial charitable giving plan involving insurance, without first obtaining an opinion from legal counsel or a private letter ruling from the Internal Revenue Service as to their legality.
- D. **Illiquid Assets (including Real Estate and Tangible Personal Property).** The Society will accept gifts of illiquid assets such as real estate, tangible personal property and intangible personal property. Gifts to the Society that are not liquid may require additional documentation prior to acceptance by the Society. This may include appraisal, site visit, professional inspection or assessment, environmental review and other types of due diligence review associated with the proposed asset to be gifted.
1. **Costs.** The costs of securing a valuation appraisal will be borne by the donor. Other transfer costs of the Society including attorney fees and title insurance, may be borne by the donor or charged to the fund being established at the Society.
 2. **Real Estate.** Gifts of real estate may be made outright, on a testamentary basis, on a current basis subject to a retained life estate, or



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to a charitable remainder trust or charitable lead trust. Such gifts require extra review.

- a. **Due Diligence Review.** Acceptance of real property may be preceded by a review that includes, but is not limited to:
 - i. A valuation appraisal;
 - ii. Physical Inspection. In addition to a site visit by a Society representative, the Society may also commission a report by a professional property inspector;
 - iii. Environmental review (a Phase I or Phase II review). In general, the Society will request that the donor provide a Phase I environmental assessment on gifts of commercial or industrial property;
 - iv. Cash flow statement and tenant leases (for rental property); and
 - v. Title examination and/or opinion of title by a qualified attorney or title company.
- b. **Cost Benefit Analysis.** The property must have significant value in relation to the costs of holding and selling the property and any liability or exposure in connection with ownership of the property. The Society will evaluate the cost of holding and/or improving the property against the cost of liquidating the property immediately.
- c. **Marketability.** The property must be marketable within a reasonable time period.
- d. **Suitability.** The use or image of the property must be consistent with the Society's mission.
- e. **Foreign Property.** Proposed gifts of property located outside the United States will be reviewed on a case-by-case basis.
- g. **Title and Title Insurance.** The Society will secure title insurance and a title insurance binder on gifts of real property.



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- h. **Insurance.** All gifts of real property will be reported to the Society's insurance carrier for inclusion in its corporate insurance policies.
- i. **Mortgage.** See discussion below regarding property subject to a debt or encumbrance.

3. **Gifts of Real Property with Retained Life Estate.** The Society will evaluate these gifts on a case-by-case basis, using the applicable policies and procedures regarding gifts of real estate described above. In addition, the donor and the Society will enter into an agreement regarding the donor's or life tenant's responsibilities for taxes, insurance, utilities, upkeep, maintenance, and limitations on the donor or life tenant's rights to make changes to the property, or allow liens to be placed on the property, without approval of the Society.

4. **Tangible Personal Property.** The Society will evaluate proposed gifts of personal property, such as works of art, on a case-by-case basis with specific consideration of the cost of administering, storing, insuring or otherwise managing such gifts.

5. **Intangible Personal Property and Intellectual Property.** The Society may accept gifts of patents, trademarks, copyrights and royalty streams or distribution rights on published works (such as books or films) where there is clear evidence of marketability or assurance of an income stream. Gifts of oil and gas interests involve special considerations and will be evaluated on a case-by-case basis.

III. **Property Subject to Debt or Encumbrance.** The Society may accept gifts of assets such as real estate, business interests or insurance policies that are subject to a debt or encumbrance. Given the potentially adverse tax consequences to the Society and donor of contributions of encumbered property (the Society may be taxed on unrelated business taxable income and the donor may be subject to capital gains tax), donors will be encouraged to refinance debt on the subject property to enable the gifted property to be free and clear.

A. **Real Estate.** Real estate contributed to the Society shall generally be free and clear of any debt or lien. The Society may accept gifts of real estate that are encumbered with mortgage debt or other encumbrance up to twenty-five percent (25%) of its appraised value. Such gifts will be evaluated on a case-by-case basis.



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- B. **Business Interests.** Gifts of shares in corporations, limited liability companies and limited partnerships with underlying debt (debt at the company or partnership level that will not be assumed by the Society) will be evaluated on a case-by-case basis.
- C. **Insurance Policies.** Gifts of insurance policies may have premiums financed by a third-party lender, in whole or in part, and will be evaluated on a case-by-case basis.
- D. **Charitable Remainder Trusts.** Gifts subject to a debt or encumbrance should not be accepted for a charitable remainder trust without review by legal counsel of unrelated business income tax consequences.

IV. Guidelines for Planned Gifts.

- A. **Bequests.** Bequests received by the Society will be applied for the charitable purposes requested by the donor, if any are specified. Donors and their advisors should be encouraged to advise the Society of their intention to make such bequests to ensure that the donor's intent can be carried out by the Society.
- B. **Charitable Gift Annuities.** The Society may issue Charitable Gift Annuities to interested donors in states where Society has the authority to issue such annuities. If and when such program is established, the Society's Board of Directors shall adopt appropriate guidelines and policies.
- C. **Charitable Remainder Trusts.** The Society may serve as trustee of any such trusts, subject to review on a case-by-case basis.
 - 1. **Minimum Gift Allowed.** The minimum amount of gift to a Charitable Remainder Trust for which the Society will serve as trustee is \$100,000.
 - 2. **Use of Remainder Interest.** The remainder from a Charitable Remainder Trust supporting the Society may be added to or used to create a fund of the Society. If the Society serves as trustee of such a trust, a minimum of fifty percent (50%) of the remainder of the trust must be irrevocably designated to support a fund administered by the Society. Exceptions shall be reviewed and approved by Society representatives authorized to enter into gift agreements.
 - a. **Purpose of Remainder Interest.** The remainder of a Charitable Remainder Trust may be used to create any type of fund offered by the Society. In all cases, donors are encouraged to advise the



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Society of their intention to make the Society a beneficiary of such trusts, to ensure that the donor's intent can be carried out by the Society.

3. **Non-Charitable Trusts Excluded.** The Society will not serve as trustee of donors' living trusts, special needs trusts or other non-charitable trusts.
 4. **Gifts of Illiquid Assets.** In situations in which the Society will serve as trustee, gifts of real estate or other illiquid assets will be considered only in relation to the funding of a Net Income Charitable Remainder Unitrust (NICRUT) or a Net Income with Makeup Provision Charitable Remainder Unitrust (NIMCRUT) or a FLIP Charitable Remainder Unitrust (FLIP CRUT).
 - a. **Charitable Remainder Annuity Trust.** In general the Society will not serve as trustee of a Charitable Remainder Annuity Trust funded with illiquid assets. The Society may agree to serve as trustee of such a trust if the donor funds the trust with sufficient liquid assets to make the annuity payments from the trust over a prudent period of time, to be determined by the Society.
 - b. **S Corporation Stock.** The Society shall not accept gifts of S corporation stock to fund a Charitable Remainder Trust. Under current law, a CRT is not an eligible shareholder of S corporation stock and a corporation's Subchapter S status is automatically terminated if its stock is transferred to a CRT.
 - c. **Partnership Interests and Limited Liability Company Shares.** Gifts of partnership interests and limited liability company interests will not be accepted by the Society to fund a Charitable Remainder Trust without review by legal counsel of unrelated business income tax consequences.
 5. **Right to Decline Trusteeship.** The Society reserves the right to decline to serve as trustee on any trust whose payouts are too high to create an appropriate charitable remainder benefit.
- D. Charitable Lead Trusts.** The Society will evaluate gifts by donors to a Charitable Lead Annuity Trust or Unitrust on a case-by-case basis. The Society may serve as the trustee of a Charitable Lead Trust. The minimum amounts applicable to Charitable Remainder Trusts shall also apply to charitable lead trusts trusted by the Society.



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- E. Bargain Sales.** The Society will evaluate these gifts on a case-by-case basis. “Bargain sales” are partial gifts and sales of real estate, securities, or other forms of illiquid property to the Society by the donor. A qualified appraisal is required. The price paid for the property by the Society should not, as a guideline, exceed 25% of the appraised fair market value of the property.
- F. Retirement Plans.** The Society will accept account type retirement plans, in which a balance accumulates as principal, such as IRAs, 401(k), 403(b), and defined contribution plans. Methods for gifting retirement plan assets include:
- 1. Outright Gift.** Naming the Society as primary, successor or contingent beneficiary for all or part of the assets upon death of either the retirement asset owner or spouse; and
 - 2. Charitable Remainder Trust.** Creating a testamentary Charitable Remainder Trust upon the death of the asset owner, naming the Society as remainder beneficiary and non-charitable heirs as income beneficiaries.
- V. Pledges.** Pledges are commitments to give a specific dollar amount according to a fixed time schedule.
- A. Information needed.** The following minimum information is needed to substantiate the pledge:
- 1. Amount.** The amount of the pledge must be clearly specified.
 - 2. Payment schedule.** There should be a clearly defined payment schedule.
 - 3. No conditions.** The donor may not prescribe contingencies or conditions with respect to payment.
 - 4. Financially capable.** The donor must be considered to be financially capable of making the gift.
 - 5. Amendments.** Changes to original pledges must be documented in writing.
 - 6. Payments Limited to Obligor.** The obligor of a pledge shall be advised that payment of the pledge by other persons or entities may have adverse legal and tax consequences. Society will consult with legal



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counsel prior to accepting a payment of a pledge from a person or entity other than the obligor of the pledge.

B. Terms and Conditions.

1. **Payment period.** The pledge payment period must conform to the term prescribed by the Board of Directors for a particular campaign or project. Ordinarily, a pledge should not exceed five years.
2. **New program.** Any pledge agreement that creates a new program, fellowship, or activity must stipulate that:
 - a. **Reliance.** It is mutually agreed by the signing parties that any consequent Society action is taken in reliance upon said pledge.
 - b. **Bequest.** The donor intends to provide through a bequest in his/her Will, or by other means, for any unpaid part of this pledge; and in event that his/her Will is admitted to probate and fails to contain a valid provision to comply with this charitable gift intention, or donor has not otherwise provided for payment of the pledge, the pledge document is to constitute a legal and binding obligation on the donor's estate.

- C. **Pledge Reminders.** The Society will maintain systems for reminding donors in a timely manner when their pledge payments are due.
- D. **Restructuring Pledge Payments.** If a pledge has lapsed more than 90 days, the Society will contact the donor to see when payment can be expected. If a donor wishes to restructure his or her pledge payment schedule, every effort will be made to accommodate this request. The Society recognizes that periodically donors may have an unexpected adverse financial situation and will be unable to complete their pledges based upon the original payment plan.
- E. **Pledge Cancellations.** The Society is responsible for tracking pledge cancellations, including the reason for the cancellation, and for notifying the Board in a timely manner. The Board will review any pledge cancellation and determine if it is in the best interest of the Society to pursue any kind of legal action against the donor. Cancellation or reduction of an enforceable pledge may have adverse legal and tax consequences for the Society and the donor. Legal counsel shall be consulted when an enforceable pledge is proposed to be reduced or cancelled.



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F. **Letters of Intent.** Many donors are reluctant to sign enforceable pledge agreements even if the donor fully intends to and likely will make a gift that is to be paid over time. In addition, tax and legal complications can arise if an enforceable pledge is cancelled or reduced. For the Society and the donor, it often may be preferable that an agreement to make a gift be an expression of intent that the donor retains the right to revoke.

1. **Amount and timing.** A letter of intent will clearly list the intended amount and timing of each payment of the gift.

2. **Designated purpose.** A letter of intent can provide for a designated purpose for the gift, that it be endowed, or both.

3. **Binding on estate.** A letter of intent may provide that the commitment is a binding obligation of the donor's estate if it is not satisfied before the donor's death and not revoked by the donor.

4. **Recognition.** The Society may reserve the right to modify or remove the recognition of an intended gift if the donor does not make all the intended payments.

IV. **Applicability of Guidelines.** This set of guidelines is intended to cover the more common types of gifts that may be made to the Society. It is understood that special gifts or circumstances may require a case-by-case review and provisions not covered by this document. The Society reserves the right to refuse any gift that it believes is not in the best interests of the Society.

A. **Exceptions.** Unless otherwise noted above, gifts to the Society that entail exceptions to these guidelines shall be reviewed and approved by Society representatives authorized to enter into gift agreements on behalf of the Society.

B. **Amendments.** The Society's Board of Directors or such Committee of the Board of Directors that is designated to review and approve such activities of the Society may amend these guidelines from time to time.