

Board Action on April 14, 2012

FRENCH HERITAGE SOCIETY, INC.

GIFT ACCEPTANCE POLICY

French Heritage Society, Inc. (“FHS”) solicits and accepts gifts for purposes that will help the organization further and fulfil its mission. Donations and other forms of support will generally be accepted from individuals, partnerships, corporations, foundations, government agencies or other entities.

The following policies and guidelines govern acceptance of gifts made to FHS for the benefit of any of its operations, programs or services.

I. Purpose

The purpose of this Gift Acceptance Policy is to articulate the policies of the Board of Directors of FHS concerning the acceptance of gifts by FHS (and all those acting on behalf of FHS, including its directors, officers and staff) and to provide guidance to donors and their professional advisors in completing gifts.

II. Responsibility to Donors

- A. General. FHS, its staff and representatives shall endeavor to assist donors in accomplishing their philanthropic objectives in providing support for FHS.
- B. Confidentiality. Information concerning all transactions between a donor and FHS shall be held by FHS in strict confidence and may be publicly disclosed only with the permission of the donor.
- C. Anonymity. FHS shall respect the wishes of donors wishing to support FHS anonymously and will take reasonable steps to safeguard those donors’ identity.
- D. Disclaimer. Each prospective donor to FHS shall be informed that FHS does not provide legal, tax or financial advice, and shall be encouraged to discuss all charitable gift planning decisions with his or her legal, financial or tax advisor before entering into any commitment to make a gift to FHS.

III. General Considerations:

When considering whether to solicit or accept gifts, FHS will consider the following factors:

- **Values:** whether acceptance of the gift compromises any of the core values of FHS;
- **Compatibility:** whether there is compatibility between the intent of the donor and the use by FHS of the gift;
- **Public Relations:** whether acceptance of the gift risks damage to the reputation of FHS;
- **Primary Benefit:** whether the primary benefit is to FHS versus the donor;
- **Consistency:** whether acceptance of the gift is consistent with prior practice;
- **Form of Gift:** whether the gift is offered in a form that FHS can use without incurring substantial expense or difficulty; and
- **Effect on Future Giving:** whether the gift encourages or discourages future gifts.

All decisions to solicit and/or accept potentially controversial gifts will be made by the Executive Committee of the Board in consultation with the FHS General Counsel. The primary consideration will be the impact of the gift on FHS.

IV. Unrestricted Gifts:

To provide FHS with maximum flexibility in the pursuit of its mission, donors shall always be encouraged to make unrestricted gifts to FHS.

V. Use of Legal Counsel:

FHS will seek the advice of its General Counsel (who, in turn, may consult with outside legal counsel) in matters relating to acceptance of gifts when appropriate. Review by counsel is required for:

- A. Gifts of securities that are subject to restrictions or buy-sell agreements.
- B. Documents naming FHS as trustee or requiring FHS to act in any fiduciary capacity.
- C. Gifts requiring FHS to assume financial or other obligations.
- D. Transactions with potential conflicts of interest.
- E. Gifts of property which may be subject to environmental or other regulatory restrictions.

VI. Restrictions on Gifts:

FHS will ***not*** accept gifts that (a) would risk causing FHS to violate its corporate charter, (b) would risk causing FHS to lose its status as a U.S. Internal Revenue Code § 501(c) (3) not-for-profit organization, (c) are too difficult or too expensive to administer in relation to their value, (d) would risk causing any unacceptable consequences for FHS, or (e) are for purposes outside the mission of FHS. Decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Executive Committee, in consultation with the FHS General Counsel.

Some concrete examples of restrictions on gifts to FHS:

- FHS will not accept contributions of monies designated for a specific project unless such project (and the fundraising for such project) has been approved by the Board of Directors (or Executive Committee of the Board of Directors) of FHS.
- Even following the approval of a specific project and the fundraising for such project, FHS will not accept contributions of monies designated for such project if the donor earmarks the monies in such a way that the monies must in any event go to the project or otherwise imposes conditions on the donation that prevent FHS from exercising exclusive legal control over the use of the monies to further the exempt purposes of FHS.
- With respect to contributions designated for an approved project, FHS reserves the right to require as a condition of acceptance of the contribution that 15% of the amount of the contribution be allocated to unrestricted funds of FHS (available for general use by FHS).
- In the event that FHS is requested to accept a payment from a private foundation or a donor-advised fund when such payment **exceeds \$75 and is partly as a contribution and partly for goods and services** (such a contribution is known as a *quid pro quo* contribution), FHS shall, prior to accepting such payment, inform the donor proposing such payment about the FHS obligatory reporting requirements applicable to *quid pro quo* contributions (see Section IX.C.(2) below). Examples of such *quid pro quo* contributions are:
 - Payments for FHS membership dues;
 - Payments of the ticket price for attendance at a FHS gala or diner event; and
 - Payments of the price for participation in a FHS trip.

VII. Gifts Generally Accepted Without Review:

- ***Cash***. Cash gifts are acceptable in any form, including by check, money order, credit card, or on-line. Donors wishing to make a gift by credit card must provide the card

type (e.g., Visa, MasterCard, American Express), card number, expiration date, and name of the card holder as it appears on the credit card.

- ***Marketable Securities.*** Marketable securities may be transferred electronically to an account maintained by FHS at one or more brokerage firms or delivered physically with the transferor's endorsement or signed stock power (with appropriate signature guarantees) attached. All marketable securities will be sold promptly upon receipt unless otherwise directed by the FHS Finance Committee (or if separately constituted, the FHS Investment Committee). In some cases marketable securities may be restricted, for example, by applicable securities laws or the terms of the proposed gift; in such instances the decision whether to accept the restricted securities shall be made by the Executive Committee in consultation with the FHS General Counsel.
- ***Bequests and Beneficiary Designations under Revocable Trusts, Life Insurance Policies, Commercial Annuities and Retirement Plans.*** Donors are encouraged to make bequests to FHS under their wills, and to name FHS as the beneficiary under trusts, life insurance policies, commercial annuities and retirement plans.
- ***Charitable Remainder Trusts.*** FHS will accept designation as a remainder beneficiary of charitable remainder trusts.
- ***Charitable Lead Trusts.*** FHS will accept designation as an income beneficiary of charitable lead trusts.

VIII. Gifts Accepted Only Subject to Prior Review:

Certain forms of gifts or donated properties are subject to review prior to acceptance. Examples of gifts subject to prior review include, but are not limited to:

- ***Tangible Personal Property.*** The Executive Committee, in consultation with the FHS General Counsel, shall review and determine whether to accept any gifts of tangible personal property in light of the following considerations: does the property further the mission of FHS? Is the property marketable? Are there any unacceptable restrictions imposed on the property? Are there any carrying costs for the property for which FHS may be responsible? Is the title/provenance of the property clear?
- ***Life Insurance.*** FHS will accept gifts of life insurance where FHS is named as both beneficiary and irrevocable owner of the insurance policy. The donor must agree to pay, before due, any future premium payments owing on the policy.
- ***Real Estate.*** All gifts of real estate are subject to review by the Executive Committee, in consultation with the FHS General Counsel. Prior to acceptance of any gift of real

estate, FHS shall require an initial environmental review by a qualified environmental firm. In the event that the initial review reveals a potential problem, FHS may retain a qualified environmental firm to conduct an environmental audit. Criteria for acceptance of gifts of real estate include: Is the property useful for FHS purposes? Is the property readily marketable? Are there covenants, conditions, restrictions, reservations, easements, encumbrances or other limitations associated with the property? Are there carrying costs (including insurance, property taxes, mortgages, notes, or the like) or maintenance expenses associated with the property? Does the environmental review or audit reflect that the property is damaged or otherwise requires remediation?

IX. FHS Reporting Requirements:

Included among the FHS reporting requirements to donors and to the Internal Revenue Service (“IRS”) are the following:

A. Sending IRS Form 8283 to Donors.

In connection with a donation of noncash property with a value over \$500, FHS will forward a copy of the IRS Form 8283 to the donor. It will be the donor’s responsibility to complete such Form and attach such completed Form to the donor’s tax return filed with the IRS for the year in which such a gift is made.

B. Filing IRS Form 8282 with IRS.

In the event that FHS sells, exchanges or otherwise disposes of property donated to FHS within two years of the donation of such property to FHS, FHS is obligated to file with the IRS a Form 8282 on or before the 125th day following such sale, exchange or disposition by FHS. The Executive Director in consultation with the FHS General Counsel shall be responsible for coordinating such filing. It is impermissible for FHS to agree with a donor to delay the sale or liquidation of property solely for the purpose of avoiding the filing of a Form 8282.

C. Acknowledgment of Gifts.

(1) Although not required by the Internal Revenue Code (or the Regulations of the IRS), it is the policy of FHS to provide the donor of **each contribution of \$250 or more (assuming no goods or services are provided in return for the contribution)** a written acknowledgment, conforming to the IRS Regulations, that states:

- The name of FHS;

- The amount of the contribution if the contribution is in cash;
- A description (but not the value) of any non-cash contribution; and
- A statement that no goods or services were provided by FHS in return for the contribution.

Separate contributions of less than \$250 are not aggregated.

Written Acknowledgments can be provided for each contribution of \$250 or more or one Acknowledgment, such as an annual summary statement, can be used to substantiate several contributions of \$250 or more.

FHS will endeavour to send such Written Acknowledgments to donors no later than January 31 of the year following the donation.

The failure of FHS to provide such Written Acknowledgments does not result in any penalty payable by FHS, however, no donor can claim a deduction for the contribution unless such donor has a copy of the Written Acknowledgment in his/her files.

(2) FHS is obligated by IRS Regulations to provide a Written Disclosure Statement to each donor who makes a **payment exceeding \$75 partly as a contribution and partly for goods and services** (such a contribution is known as a *quid pro quo* contribution). The Written Disclosure Statement, conforming to the IRS Regulations, must:

- Inform the donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of money (and the fair market value of property other than money) contributed by the donor over the value of the goods or services provided by FHS; and
- Provide the donor with a good faith estimate of the value of the goods or services provided by FHS.

FHS is obligated to furnish the Written Disclosure Statement in connection with either the **solicitation** of the contribution (e.g., in the invitation) **or** the **receipt** of the *quid pro quo* contribution.

The Written Disclosure Statement must be made in a manner that is likely to come to the attention of the donor (i.e., use of small print should be avoided).

A penalty is imposed by the IRS on nonprofits that do not meet the written disclosure statement requirements. The penalty is \$10 per contribution, not to exceed \$5,000 per fundraising event or mailing.

X. Donor Recognition

The Board of Directors, upon recommendation of its Development Committee, may establish criteria for the recognition and honoring of a donor with certain honors or

benefits based on various giving levels achieved by a donor and the type of gift. These honors or benefits may include the listing of the donor's name on a roll or plaque of significant donors or the opportunity to receive invitations to donor recognition events.

XI. Fiduciary Relationships

- A. General. Unless approved in advance by the FHS General Counsel, FHS will not agree to serve as executor of a decedent's estate or as trustee of a living trust or other trust intended to serve as a person's primary estate planning document.
- B. Trusteeship. FHS may serve as trustee of charitable remainder trusts, provided that no less than 50% of the remainder interest in the trust is irrevocably dedicated to FHS, and the charitable remainder trusts meet the minimum standards established from time to time by the gift planning procedures of FHS. FHS may serve as trustee of trusts only in circumstances in which its investment authority as trustee is unrestricted. FHS will not serve as co-trustee of a trust.

XII. Delegation

Implementation of these policies is delegated to the Executive Director of FHS, who shall be responsible for oversight of the acceptance of all gifts by FHS.

XIII. Periodic Review

The Development Committee of the Board of Directors, in consultation with the FHS General Counsel, shall periodically (but no less frequently than every two years) review these policies to ensure that they continue to accurately describe the policies of FHS with respect to acceptance of gifts, and shall propose to the full Board of Directors for adoption those revisions that the Committee shall determine to be necessary or appropriate in order for this Gift Acceptance Policy to accurately reflect the policies of FHS.