DECLINING GRANTS WITH TANGIBLE DONOR BENEFITS POLICY

Dinners, special seating, privileged parking and other tangible benefits attached to a charitable donation pose complicated legal and policy challenges for both donors and the sponsoring organization of Donor Advised Funds such as the Community Foundation of Northeast Alabama. These token and special incentives to express gratitude to donors for their generosity have an economic benefit based on the fair market value of the goods and services provided.

It is a legal obligation for the Community Foundation of Northeast Alabama to monitor distributions from Donor Advised Funds because of the possible extension of providing benefits to private individuals. To the public, these seemingly pecuniary gifts may infer that philanthropic foundations may facilitate tax avoidance while still receiving benefits. To the IRS, a pattern of this activity might suggest that charitable organizations are not operating exclusively for charitable purposes as required to retain its exempt status.

IRS Regulation: For the purpose of the self-dealing rule, the IRS has taken the position that it is not possible to separate the price of a ticket into its charitable and non-charitable components. For public charities such as community foundations, the idea that the charitable and non-charitable components of a ticket are inseparable suggests that the donor advisor cannot correct the private benefit problem posed when fund distributions pay for tickets by offering to pick-up the non-charitable portion of the tab. The donor advisor would not be in a position to pay for the dinner if the community foundation funds were not covering the donation, and the community foundation may be seen as serving private interests by discharging an individual obligation.

The IRS has provided rules for how grant makers can address the issues potentially raised by special donor incentives (see Rev. Rul. 67-246, 1967-2 C.B. 104). Options include indicating on a contribution form that no tickets are to be sent or refusing to accept the tickets, token, voucher or pass if they are sent. In addition, the donor may use personal funds to purchase event tickets and utilize the Donor Advised Fund exclusively for charitable contributions not associated with any event where a donor benefit is attached.

Revenue Ruling 67-246 emphasizes that simply not using the tickets does not constitute a refusal. As long as the taxpayer still has the tickets, he or she has the right to attend the event and that right has economic value. Notably, in a later ruling, the IRS held that a taxpayer who donated the tickets back to the charity for resale was entitled to a charitable deduction equal to the cost of the ticket (see Rev. Rule 74-348, 1974-2 C.B. 80).

Policy: The Community Foundation Donor Advised Fund Grant Recommendation Form language specifically requires donor advisors to certify that recommended distributions will not result in any tangible benefit to them or other related parties (disqualified persons). Further, language in the award letter to the grantees requires their certification and acknowledgment that no tangible goods or services are being furnished to the donor or anyone associated with the donor as a result of the grant.

The Community Foundation will not knowingly make grants from Donor Advised Funds to support galas, benefits, fundraisers, or any other such activities which yield a benefit such as tickets, meals, special privileges or other material goods benefiting the Foundation, the donor, or advisor.
The Community Foundation will not honor a donor recommendation that includes fundraising events, dinners, galas or other events that have a tangible and interlocked benefit.

The Community Foundation will not separate the value of tickets or other pecuniary gifts into “gift” and “non-gift” components as these components are inseparable and the Foundation could be seen as serving private interests.

If tickets or material goods are offered or received by the Community Foundation due to a donor advised grant, these gifts will be refused or returned to the originating organization.

Approved by the Board of Trustees
January 11, 2007