How do you handle a gift of a gift certificate?

This will depend on whether or not the gift certificate has a cash redemption value. Based on a conversation I had with the IRS 6 years ago, they told me that the legal value of that gift certificate is equal to only how much cash you could turn it in for (some certificates/coupons do have cash redemption values). So if there is such a value, that is the amount you would record as a gift. Otherwise, it would probably go on your books for $.01. But regardless of the value, the receipt to the donor would not have any amount on it but, instead, just a description of what was given.

If a donor offers to transport a member of the university faculty from point A to point B in the donor's private plane, is this a gift? If so, what is included in the value?

Typically you would not be able to claim the total cost associated with this activity as a gift. Your business office would likely not reimburse the donor for the full amount, and the IRS would likely only permit a deduction equal to the standard airfare available at the time. Certainly it is a gift – especially given the fact that it saved you money. But only a gift at the value you would have customarily expended.

How do you handle a gift of a politician’s paper?

It depends on their political affiliation. Seriously, it does depend greatly on who the donor is and the contents of those papers. If deemed sufficiently valuable then an appraisal may be in order. Your institution’s archivist may also be able to help determine their value. Of course, we must also assume that the papers are in some fashion going to be useful to the institution. Regardless of their value, though, the donor receives a receipt simply describing the donation without indicating a value.
For smaller institutions, can your Gift Acceptance Committee (GAC) be your Advancement Committee or do you recommend a different group?

That depends greatly on who serves on your Advancement Committee. No, the GAC does not necessarily have to be a different group. But the GAC should have at a minimum, your institution’s attorney and an official from your business office onboard as the decisions made by the GAC may have both legal and financial implications for your organization.

Can you accept a gift of art from an immediate family member of an artist who is still living?

I know of no reason why you cannot. Once again your receipt to the donor will only have a description on it. They will have to prove and justify to the IRS what its value is.

What about the acceptance of a wine collection for a public university... issues of storing and selling alcohol?

I would think this would be an institutional policy matter. But the question must be asked, “How would a wine collection further the mission of our university?”

What value would be assigned in your data management system for a cadaver?

$0.00. In fact, I personally would not record this as a gift in a data management system at all since the IRS does not recognize the donation of a body as a tax-deductible donation.

One of our board members paid for a dinner for a board of trustee’s dinner off-campus. Is this a valid gift in kind?

This isn’t too dissimilar from the above question regarding the use of a private jet. If the expenses would have otherwise been reimbursed – and meet the IRS criteria for deductibility, then certainly. But I also think it best to let the individual file for reimbursement and then, if they wish, make a cash gift. That will actually make it easier for the donor to claim a deduction.
We receive vehicles for an emergency services training program from time to time that have VIN numbers but no titles. How would you handle these gifts?

Without a title, you can’t be the owner (I do believe). They have to be irrevocably transferred to you in order to be able to treat them as a gift. Otherwise, they would fall under the IRS “partial interest” rules.

What about gifts of services? My programs all have clinical components. Would the efforts of the professionals who are preceptors for our students’ clinical time count as gifts in kind?

IRS Publication 526 is ultra clear in this area. A contributed service — the value of one’s time — is not a gift, period. Certainly, they should be recognized in some fashion. But they cannot be issued a receipt or have the corresponding value recorded as a donation.

We have donors that donated their vacation home and frequent flyer miles for a fundraising auction. I understand the IRS regs. for the donors of the item, but how do I determine fair market value (FMV) for the donor who "purchases" that item at the auction?

The vacation home probably has a standard rental value. That would be the FMV. If not, the donor would need to estimate that value for you. The frequent flyer miles are more difficult in that they have no value. I guess you could come up with an average airfare for that airline, but you may be better off just not stipulating a FMV.

Our accountants recommend using language in a gift-in-kind (GIK) acknowledgement like "which you the donor have valued at $X..." Do you recommend doing this, or should we simply provide a description of the gift (and thank you) in the acknowledgement?

I suggest that you only do this on an as-requested basis. Normally you should provide only a description as outlined in IRS Publication 1771.

What do we do when a donor does not submit an 8283 to us? Should we chase it?

You should not do anything. Certainly you might want to remind them about the need to file an 8283 once. I suggest simply including a sentence in that regard on the GIK receipt. But you have no legal responsibility related to the 8283 other than signing, if presented. That is a tax matter between the donor and the IRS.
Who actually determines that stock is subject to Rule 144? Can you rely on the donor's affirmation that it is?

The stock issuer does this. In fact it’s pretty darn clear if there is such a restriction because the stock, in these cases, can only be transferred via certificate and on that certificate there will be a big red stamp indicating that it is either Rule 144 or 145 restricted.

Why do we want to insist on a single brokerage account, when a donor will want to use his or her own broker?

They are still going to have to use their broker to transfer the stock to you. And the last thing you are going to want is to have a 100 different open brokerage accounts all over the country. Remember, for the donor to give you stock it needs to go into your account. So, in fact, it’s far easier for the donor’s broker to transfer the stock to your existing account rather than open a new account. Sure, the broker will lose a commission. But that’s not your problem. Furthermore, the more activity you can get going through one account the lower your brokerage fees will be. And as mentioned during the presentation, administratively for your institution, the fewer accounts to keep track of, the better.

Can we put a dollar amount on our receipts once the stocks are sold?

Well, the sales price really is of no use to the donor, so I do not know why you would want to wait until they have sold. As I indicated during the presentation, many institutions will go ahead and put the legal value of the stock on the receipt – but will also include a disclaimer that the calculation was for internal purposes only and that the donor should seek tax guidance.

Can a letter on college letterhead be considered a legal receipt?

Certainly, provided that the letter contains all the required elements outlined in IRS Publication 1771. I also suggest that if the “receipt” looks like a letter, you should add a statement at the top indicating that it is an official tax document.

Is an insurance payment a cash gift and must it be receipted if $250 or up?

It sure is, provided the institution is the (or one of the) irrevocable owner and beneficiary.
Who should be responsible for determining whether a gift should go to the gift acceptance committee (if not clear in the policy)?

First, I’d say that you would need to tighten up the policy if it was not clear. Ultimately, though, I would think that the person who heads the unit responsible for processing gifts would be the one to raise a red flag if they didn’t feel comfortable with the gift as is.

Please talk more about mentioning values of larger gifts in kind in publications.

I assume you are talking about announcements of gifts and honor rolls. While I would refrain as much as possible for mentioning any value, the key is to never do so in any form of official document that a donor might use for purposes of claiming a tax deduction. Otherwise, being careful to have language along the lines of, “Which the donor estimates to be worth . . .” associated with the amount should be sufficient to protect you.

What about gifts of stock options?

They are very nearly worthless. You can use a very complicated calculation called “Black-Scholes” to determine their value. One website that has such a calculator is [http://www.blobek.com/black-scholes.html](http://www.blobek.com/black-scholes.html). But you should first suggest that the donor talk to their finance person to see if it makes any sense for them to give them at all. What likely makes more sense is for them to exercise the options and then give you the stock.

Post-conference, can you provide us with sample language for acknowledging gifts of securities? We typically acknowledge the # of shares and mean value at the close of business on the date of receipt.

I suggest that if you provide any value you simply say something like, “Thank you for your gift of X shares of Y stock which we have valued at Z dollars as of such-and-such a date. Please consult with your tax adviser.” You really do not need to say much more than that.

What is an IPO?

An Initial Public Offering. As I mentioned, I have not had personal experience with a planned or actual donation of one. Some do have “strike” values that are public which you could use to determine gift values, I suppose.
What about gifts that are of a priceless nature (historic, aesthetic) for which there is neither a market nor other prospective non-profit? We would describe the property, of course, but what can the donor do in terms of tax-deductibility?

Probably very little. But that is not of your concern. That is between them and their tax adviser. You **cannot** ever provide your donors with tax guidance. The IRS, however, says that if someone feels something is “priceless” they should have an appraisal to determine its actual value.

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**What is the official verbiage for the disclaimer for the receipt for securities gifts?**

See IRS Publication 1771 for official guidance. Basically, though, all you are required to provide is the name of the stock and the number of shares.

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**Is it appropriate to include a value on the receipt of publicly traded stock?**

Not according to the IRS. If you feel you must, though, there needs to be a clear and concise disclaimer as indicated above.

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**How do you value a gift of an interest in a limited partnership, and what are the timing considerations when the gift is made and the related sale of the partnership?**

**You** don’t value it – the donor does. Typically that is done through an appraisal process or official statement from a hired, independent, auditing firm. I am personally not aware of any timing considerations but suggest that you ask your attorney for guidance.

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**A donor has an automotive asset manufactured outside the US. As such, by law, it must be destroyed after its useful life. As a result, the donor is willing to loan the asset to us for 2 years to be used in academic programs. Is there a gift value?**

None that I can see. The donor still needs to transfer ownership to you for it to be a gift. Then it is up to you to destroy it.

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**Software is "licensed" and is not owned by you even if you buy it. Using your logic, no software that is "donated" is a donation. Does that mean you can't count software licenses as gifts?**

I provided one clear example in the presentation where ownership was transferred and a lawyer has confirmed that it was a tax-deductible donation. You are right – the use of a license for a period of time is not a gift. But if title is transferred – as in this case it was – it most certainly can be counted.
Are gifts of limited licensure considered "gifts" per IRS rules?

Generally, no. But you need to be a bit more specific. If you mean you can only use something for a set period of time, they are not gifts.

What about gifts of design fees, printing, etc.?

Well, I can’t comment on the “etc.”, but the other two are services and, therefore, not gifts.

How does an individual substantiate out-of-pocket expenses incurred on behalf of their support for a qualified charitable organization? And, what, if any, responsibility does the organization have in the substantiation?

I suggest that an institution issue letters to their volunteers outlining the nature of their volunteer activity and dates of involvement. That’s about all you need to do.

Regarding donation of services, is there a difference in how the IRS views an individual's donation of service vs. a company's donation of service?

Not to my knowledge, but then I am not an attorney. But to ensure a level playing field, the CASE Management & Reporting Standards state that it matters not who is performing the service – John Taylor or John Taylor, Inc. – no contributed services are counted in official fundraising totals.

What about educational discounts on software?

This are not gifts in that the company has simply stated a lower purchase value for certain clients. Bargain sales, however, are different and are defined and described both in IRS Publication 526 and the CASE Management & Reporting Standards.

Is a donation of use of one-week of a time-share to an auction a gift?

No. That would fall under the IRS partial interest rules. However, it still has a FMV that should be stated at the auction so that if some bids higher than that amount they can claim a deduction for the difference.
Should an appraisal, including artwork, always be independent of the donee? Should faculty of the donee institution not be asked to do the appraisal?

For the donor’s tax purposes, absolutely the appraisal must be obtained by the donor and must be independent. You may use a faculty member for internal valuation purposes, but I would advise against using someone that would in any way benefit from the valuation – in other words, I would not use the faculty member to whose department the gift is being given.

This question comes from your paper on Gifts of Securities that was included in the information packet sent out with the seminar materials. On page 2 chapter 2, you mention that you should not publish the instructions anywhere, even to development officers. Can you tell me more about why you make that suggestion?

Publishing the instructions (DTC number and account number specifically) defeats the whole purpose of the process to ensure you know about all stock gifts before they are made. If the instructions are freely distributed – even if you ask really nicely that people tell you when a stock gift is coming – the stock will start magically appearing. Retaining tight control over who, and when, the instructions are provided will ensure that you won’t be faced with the question, “Who in the world gave us this stock?”

If a construction company paves a parking lot free of charge, is this a gift? And if so, how would you go about evaluating it?

This qualifies as a service and, thus, is not a gift (except for the value of materials). The best thing to do is have the company bill you, you pay the bill, and let them make a cash donation to you if they wish.

Can a person give a gift of an IRA?

Under current IRS rules, a donor cannot make a tax-advantaged gift of retirement fund assets while they are still alive. See page 47 of the CASE Management & Reporting Standards.
In the discussion of mega gifts of software, it was clear that an institution cannot consider software a gift for IRS purposes unless the institution has definitively been given ownership of the software (like the institution in NY). What if you receive software, it’s clearly a license to use the software and not a gift of ownership, and both the institution and the donor agree it’s not a gift for IRS purposes. Under those circumstances, may the institution count the value of the gift of software towards fund raising totals or a capital campaign?

Not at all. You should only count irrevocable gifts in your official totals. Please refer to the CASE Management & Reporting Standards.

My question has to do with slides 32 & 33 (pgs 16 & 17 of the handout) "Other Gift/Non-Gift Issues". In this case a volunteer hosted four donor prospects and a university development officer at a baseball game, they sat in the box seats which run around $80/ticket, the volunteer paid for the 6 tickets = $480. The purpose was to solicit the four donor/prospects for a specific project/program at the university. Can the donor deduct $400 (I would think that his ticket would not be deductible?) for this activity? Should we send him a receipt in this case?

Only if the expense was one that you would have otherwise absorbed would this be a gift – and I might add that you should/would have agreed on this in advance. Of course the cleanest thing would be to simply reimburse the donor since you would have any way and then let them make a cash donation back to you if they wish. You are right, though, that their ticket would not be “giftable” as they derived a direct benefit.

I have a question about nonstandard gifts donated to student organizations, such as items donated for a silent auction, when the student organization is doing fundraising. Are those items considered gifts, and should I (gift processor) be valuing and counting them, and giving the donor an acknowledgement, describing the donated item? We’ve traditionally left the student organizations alone to do their own thing, but now I have someone who has donated a kayak as an auction item and wants a receipt. I know I can send a receipt describing the kayak after the kayak has been auctioned off, and value it in our internal system for the amount of the final bid. Should the student org accepting this kayak complete our gift acceptance form? What about cash gifts to student organizations? Should I be recording those? I guess my question really is, are student organization fundraising efforts handled differently from our development procedures?

Whether or not you can treat these as legal, charitable, donations will depend on the nature of the student organization. So you first will need to ask your attorney whether or not tax-deductible gifts can be made to each and every specific student organization you have. But let’s assume that this group is one that can accept tax-deductible donations. In that case, by all means you should record the donation once it has proven to be of use to your institution. In the case of an auction item, that would mean that it had to have
generated some cash for you – an item that doesn’t sell at the auction and is sitting in a closet somewhere is not a gift as you rightly point out. I cannot speak directly to your “gift acceptance form” as not all institutions have such a document and I am not familiar with your specific policies and procedures. That said, though, as long as your attorney agrees that gifts can be made to this group, you should treat in-kind and cash donations to them exactly the way you would to any other department/division of the institution.

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Is it acceptable if we have a Board Real Estate Committee and Investment Committee to approve of gifts such as real estate or planned gifts, and the Board’s Executive Committee reviews any gifts not in accordance with our policy? Would you still advise creating at least an internal staff Gift Acceptance Committee?

I think that having this combined body would work, depending on its make up. But they would need to have the additional “charge” of reviewing all non-standard gifts. And I would definitely recommend that your legal counsel be included if not already on one of these bodies.

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A donor has given a piece of equipment to a department. The donor has provided a receipt that shows the fair market value and what he/she actually paid for it (donor received a discount). Now the donor wants the fair market value to show on a thank you letter. Can we do so with the language "Fair market value you provided," and with the disclaimer that they should contact their tax advisor for any charitable contribution issues? Also what can we book the gift as for counting purposes? The fair market value or the discount value price? The fair market value of the gift is $50,000 and the donor paid $20,000 for the equipment. Do we need to inform the donor he/she is required to get an appraisal or is it sufficient to state that he/she needs to speak with a tax advisor on this subject?

As you know, I tend to argue against putting any amount on a gift-in-kind acknowledgment. But sometimes you do not have a choice. That said, I would not make any reference to fair market value. I would simply say, “Which you have valued.” The value you count is whatever amount you would have had to pay regardless of what the donor paid. And, no, you should not say anything regarding a “requirement” to obtain an appraisal. You might, though, remind them that the IRS may require that they file IRS Form 8283 (which has the appraiser requirement) and to seek further guidance.

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We do ask for the appraised value for gifts-in-kind (GIK) over $5,000. For GIK booked for a penny because the appraised value was not available at that time creates, delays campaign reporting. It could be over a year before we get the appraised value and providing the appraised value to the charity is probably not the first thing donor thinks about when getting the appraisal. Although it's ideal and in some cases it is necessary (i.e. a valuable art donation from the artist). However, in many instances the donor may simply want to donate with "good intentions" where
the fair market value is not imperative. Legality is not an issue since the value of the gift is not indicated in the receipt but it is imperative to determine the value of the gift to count it. The CASE Management and Reporting Standards (page 34) states that the institution should value the gift based on what the institution would have paid for the items. Can you elaborate more on this?

These are two separate issues. The reference on page 34 is to address issues such as educational discounts. You would, therefore, need to reduce the value of an in-kind donation if you would have automatically been able to obtain the same item for less.

Regarding your appraisal dilemma, the same standards mention that if the item is valuable and you do not have a donor-provided appraisal, you will likely need to obtain one anyway for insurance purposes. That can be used for counting purposes.

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**When prizes or silent action items are donated for a fundraiser or event, can we receipt that donor with the fair market value of the gift or should we just thank them for the item (basket of goodies, vacation to Las Vegas, round of golf at a golf course)?**

All in-kind donations should be acknowledged with only a reference to what was given and without mention of a value. And do always keep in mind that you should never issue an acknowledgement that could be used for tax purposes for a non-gift (as in gifts of services or partial interest).

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**Can we provide donor receipts or just thank you to booster organizations that make and/or provide meals to athletes after a game?**

A receipt can be provided if you would have otherwise had to pay for those meals. That said, if you had paid for the meals anyway, the optimum scenario would have the club filing for a reimbursement of those expenses and then hope they would turn around and make a cash gift to you.

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**In regards to donor confidentiality, do you see a difference when a University unit receives donor or account information via paper or via access to an electronic site from their independent foundation?**

I am afraid this question is not related to the seminar. Personally I see no significant difference and the IRS has endorsed the use of electronic records for legal purposes. But you should probably discuss this with your own attorney.

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**Our athletic booster club charges $100 - $498+ for the annual membership. The membership entitles the donor to participate in a swim association (at the**
university) at a discounted monthly rate. The rate is at $60 / month for non-booster members and $40 for a booster member. Should we factor in the $20 per month benefit in the premium worksheet?

Yes, you must per IRS Publication 526.

A charity offers a promotional CD (which is not for sale) to donors making a gift of $5 or more; for gifts of $35 or more a t-shirt (with institution’s logo and cost of the t-shirt to the organization is $3 each) was offered to the donors. After reviewing CASE list-serv archive, IRS Pub. 526, 1771 - it appears that t-shirt and CDs are considered token items with insubstantial value. However, there are rooms for swaying either way depending on how you feel and which IRS document you read. For example, the FMV of the goods must be the lesser of 2% of the gift or $76. Arguably the FMV of the CD and t-shirts can be $0 since it is not for sale. What are your thoughts?

Actually, it’s now 2% or $82 for benefits, and $8.20 for “low cost articles.” So in your example, the both items would be excluded from the quid pro quo calculation for any payment made of $41 or more. But for payments of less than that (the IRS minimum for 2004), I personally would agree with your argument. But since this is a legal matter your institution’s attorney would have to make the final determination.