

*A Charitable Giving Reference*

*For*

*Professional Advisors*

*Scranton Area  
Foundation*   

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*Catalyst for Community*

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We recommend that professional advisors contact the Foundation directly for information suitable for any fund being considered.

The Foundation welcomes any opportunity to be of assistance to professional advisors regarding the use of the Foundation as a vehicle for their clients' charitable giving, or any other matter.

# Professional Advisors Charitable Giving Reference

## **Scranton Area Foundation: Serving Scranton and Lackawanna County**

The information contained in this quick reference guide is designed to assist professional advisors in helping clients to achieve their charitable goals and to give information on the mission and services of a community foundation as a vehicle for charitable giving.

The Scranton Area Foundation fosters the development of organized philanthropy and provides a wide range of donor services. We help the community to respond to emerging needs and opportunities across a variety of disciplines such as education, health, human services, arts and culture, the environment and civic action.

- As leaders in the field of philanthropy, we understand charitable vehicles and remain up to date on current tax laws. We always recommend that donors consult their professional advisors for legal or tax advice.
- We offer free consultation services to donors and their professional advisors to help determine whether a charitable gift makes sense for them and if so, the best way to structure that gift to meet their charitable objectives.
- We can help you create timely, flexible giving arrangements that meet your clients' personal charitable goals.
- We don't just give money away: Our staff maintains long-term relationships with local non-profits, allowing us to offer sound guidance to donors about community needs and charitable opportunities.
- We make charitable giving accessible to everyone: Gifts to existing funds can be made for any amount, and personal, named funds can be established to suit a donor's purpose.

### **For more information**

Professional advisors and their clients who are interested in charitable giving are encouraged to contact the Foundation for information.

Call us at

570-347-6203

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## **Contact Information**

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*Scranton Area  
Foundation*   
Catalyst for Community

*Of the Community, By the Community,  
and  
For the Community*

**What is a Community Foundation?**

A community foundation is a collection of separate funds established by individuals, organizations and others to support the future and sustain the present of a community.

These funds are pooled and invested through the auspices of a board of governors comprised of community citizens. The funds' income, and sometimes principal, is distributed as grants. Community foundations are one of the fastest growing sectors of philanthropy in America today and often are in the vanguard of charitable giving. For example, community foundations were among the first to respond to challenges in affordable housing and community based development, the crisis in health care, and in fostering collaborative efforts to stretch community resources.

**What is the Scranton Area Foundation, Inc.?**

The Scranton Area Foundation, Inc. is a public, community foundation established in 1988, when it qualified as a fully tax exempt charitable organization under Sections 501(c)(3) and 170(b)(1)(A)(vi) of the Internal Revenue Code. The Foundation was formed in 1954, and operated as a private foundation in the early years.

Our purpose is to help the community meet a wide variety of educational, cultural, human service and other charitable needs throughout Lackawanna County. We carry out this purpose through the distribution of income from endowment funds established by donors.

Our mission is to enhance the quality of life for all the people in Lackawanna County through the development of organized philanthropy.

The Foundation strives to carry out this mission:

**As a Steward...** by developing and managing permanent endowment funds

**As a Grantmaker...** by giving grants and support to enable the community to respond to emerging and changing needs and opportunities

**As a Charitable Resource...** by encouraging and educating donors and providing a flexible vehicle for individual donors, nonprofit organizations and the community at large

**As a Catalyst...** by mobilizing community leadership in response to issues

Over the years, grants of more than **\$10 million** have been made to assist the educational, human service, environmental, civic, and arts & cultural organizations in our area. As the Foundation's endowment continues to grow, there will be increased opportunity for positive impact on community issues through grantmaking.

A description of the Scranton Area Foundation, Inc. is that it is Lackawanna County's permanent savings account to help fund the needs of our changing community over the years to come. The Foundation's grants are sound venture capital to enable good ideas to become effective programs and services for all our citizens.

In addition, the Internal Revenue Service designation of the Scranton Area Foundation as a public charity requires evidence of annual broad based public support. We demonstrate this through our governance structure, our public interaction and by receiving a significant portion of our annual smaller gifts from many donors in the general public. Those gifts, combined with larger endowment funds are gratefully accepted and give the Foundation the capacity to make grants and provide service to the community.

## **How does the Scranton Area Foundation Work?**

The Scranton Area Foundation, Inc. is governed by a Board of Governors who are citizens from Lackawanna County, and are appointed or elected because of their knowledge and understanding of community issues and opportunities. Some are appointed by various community constituencies: Banks, Greater Scranton Chamber of Commerce, Lackawanna Bar Association, President Judge of Lackawanna County, United Way of Lackawanna County, and the Lackawanna County Commissioners. Others are elected by the Board of Governors.

The Foundation is administered by a full time professional staff. Operating costs are paid from gifts and grants to the Foundation and through investment income. We are pleased to report that we reserve more than 97% of our endowment assets for charitable purposes.

We make grants to non-profit organizations who submit grant applications for timely and important community programs and services. We have also initiated grants when it appears that a major community issue can be addressed by identifying and encouraging leadership. We have fostered collaborative efforts among grant applicants as well as among other funders to bring expertise and dollars to bear on local issues.

## **Who Administers the Assets?**

The Foundation has a very active Investment Committee which establishes investment policy and regularly monitors and reviews performance of all Foundation funds. Foundation investments are organized to provide total return in order to preserve and grow the principal as well as to yield a steady stream of funding for grants and programs.

The Foundation's statement of Investment Policy/Objectives & Guidelines includes the annual determination by the Board of a spending policy equal to a set percentage of the portfolio value.

## **In summary, the Scranton Area Foundation is...**

... a **vehicle** through which individuals, businesses and other foundations can support non-profit organizations throughout Lackawanna County. We are not the users of the funds -- we are the conduit to help people who want to improve their community now and for generations to come.

... a **grantmaker and community partner** helping charitable groups to provide needed services in health, education, human services, environment and culture to all the people of our area.

... a **tax-exempt organization** formed to attract, manage and distribute income from gifts of capital for the benefit of the community.

We're one of more than 800 community foundations nationwide... and the only one serving Scranton and Lackawanna County.

**... of, for, and by the people.**

## ***PROFESSIONAL ADVISORS AND CHARITABLE GIVING***

The primary objective of the Scranton Area Foundation is to provide the highest quality of donor service possible to help donors achieve personal and estate planning goals in a cost effective and well conceived manner. Local donors and their professional advisors have built a significant philanthropic resource to help address the current challenges and opportunities in our community and to prepare for the ever changing needs of the future.

Since 1988, when the Foundation became a publicly supported community foundation, it has been a resource for professional advisors and a philanthropic partner for their clients. It is a vehicle through which individuals, families, businesses, civic groups and nonprofit organizations can make gifts, current or deferred, to benefit our community.

While The Foundation is a public charity, it does not promote a particular charitable cause. Our primary focus is the creation of named endowments. Grouping these named endowments within the administrative umbrella of a single public charity can create significant economies of scale, and enhanced investment alternatives for your clients.

Professional advisors have a unique opportunity to help clients achieve philanthropic and estate planning goals. Clients can often maximize the personal benefits of giving when they are making major business, personal and financial decisions such as: (1) estate planning; (2) writing or revising a will; (3) sale of a business or other major asset; (4) retirement planning; and (5) at times of a financial windfall such as a merger or acquisition.

Over the years, The Foundation has been a resource for clients and professional advisors during these windows of opportunity. When they occur, we encourage you to ask the *philanthropic question* - "Are there charitable or community needs you would like to consider?"

When the answer is yes, we encourage you to call The Foundation. Many in our community have found us a flexible and easily understandable vehicle that can help donors accomplish their unique objectives.

Our goal is to help you help your clients. This information gives an overview of our services and illustrates how they can help donors accomplish personal philanthropic and estate planning objectives.

Our partnership with professional advisors is important and significant. We always welcome your questions, comments and suggestions. Some of our donors' funds have been made possible through the assistance of local professional advisors. We thank you for your interest and participation.

## ***CHARITABLE GIVING THROUGH THE SCRANTON AREA FOUNDATION***

The Foundation has been a grantmaker in Lackawanna County for fifty years. We have been a community foundation since 1988, and our efforts to know and understand the issues and opportunities of our ever-changing community are constant. Donors receive the maximum tax benefits allowable by law, which are greater through a community foundation, and they also enjoy the accomplishment of their charitable goals.

Prior to the Tax Reform Act of 1969, many believed the only way to be truly involved in significant charitable giving was to create a private foundation. While this may still be the best choice in certain circumstances, many local donors have found the creation of a named endowment within The Scranton Area Foundation an attractive alternative.

### **Advantages**

#### **SIMPLICITY**

Named endowment can be created in a manner of minutes and with no cost. Private foundations require the start-up time and expense associated with the creation of a new organization.

#### **FLEXIBILITY**

Many kinds of charitable action can be accomplished through a named endowment fund within The Scranton Area Foundation. Family members can be involved. Grants can be made to organizations outside Lackawanna County. While our purpose is to build endowment, shorter term funds for a specific purpose may also be established.

The requirement to annually distribute at least 5% of net investment assets does not apply to named endowments within The Foundation. The strict regulations on self-dealing and ownership of more than 20 percent of a related corporation's voting stock do not apply.

## **STEWARDSHIP**

The Board of Governors of the Foundation has guided the Foundation and its many services throughout its 50 year history. They and the staff of the Foundation are fully accountable for the stewardship of the precious resources entrusted by many donors to the Foundation's care, and take every measure in the pursuit excellence.

## **TAX BENEFITS**

As a public charity, The Foundation offers the highest level of tax benefits; higher than a gift to a private foundation. A gift of cash is deductible up to 50% of adjusted gross income. For gifts of appreciated property, the deductible is up to 30% of adjusted gross income. Both deductions allow a five-year carry-forward if required.

## **COST EFFECTIVENESS**

A named endowment within The Scranton Area Foundation pays **no** tax on investment income. A private foundation pays up to 2 percent federal excise tax on its net invested income and realized gain.

All named endowments are covered under a single and simplified 990. A single audit covers all of our funds. Our partnership with local investment management results in significantly lower management fees.

The outcome is an increased stream of income available to local charities.

## **DONOR PARTICIPATION**

Many donors enjoy the opportunity to work with The Foundation during their lifetimes. Should they wish, they can identify general areas of interest and ask The Foundation to seek out worthy projects for their consideration. We offer periodic donor forums on the critical issues facing our region. We can help donors remain anonymous, or generate increased publicity for their philanthropy

## ***A VARIETY OF FUNDS***

Through the Scranton Area Foundation, your clients can create a personal philanthropic legacy tailored to their specific needs and interests. The fund may bear the named of the donor, a loved one, or it may remain anonymous. Your clients may specify the general or specific charitable purposes. Funds may be established during a donor's lifetime, or by bequest. Grants are awarded in the name of the fund, to favored charities.

## **Types of Funds**

Your client may choose from the following fund types:

- Unrestricted
- Field of Interest
- Donor Designated
- Donor Advised
- Memorial
- Scholarships
- Organizational Endowments
- Annuities and Trusts

## **UNRESTRICTED**

These funds are typically created by visionary philanthropists with broad charitable interest. They offer current, and future, board of The Foundation maximum flexibility to respond to changing needs of the community, emergencies and to support the creation of innovative responses to community problems.

Donors who create one of our other types of funds during their lifetimes can, if they choose, specify their named fund to become unrestricted after their deaths.

## **FIELD OF INTEREST**

This fund allows your client to support a particular broad charitable cause, such as education, the arts, health, youth or the disabled, etc. The Foundation then seeks out worthy projects within this defined field of interest. Some donor's who create field of interest funds during their lifetimes enjoy participating in the process of identifying worthy projects.

## **DONOR DESIGNATED**

These funds are normally created to perpetually benefit one, or more, specific charities. Grants will be made in the name of the fund as long as the organization remains in operation and is consistent with its original charitable purpose.

If, over time, an agency benefiting from a donor designated fund goes out of business, becomes for-profit, or substantially alters its mission so that it no longer fits with the donor's original intent, a future Foundation Board of Governors will seek out alternate beneficiaries to ensure the donor's original charitable goals continue to be met.

## **DONOR ADVISED**

These funds are often an attractive alternative to the creation of a private foundation. Donors receive a maximum available tax deduction for the original, and any subsequent, gifts. In subsequent years, they may suggest deserving charities to benefit from fund income or, if desired, principal. Grants are then made, in the name of the fund, to favored charities.

While legal control of the fund rests with The Foundation, donor's can be assured their advice is taken seriously. Investments, paperwork, and grant monitoring are all handled by The Foundation; with recognition flowing to the donor. If requested, complete donor anonymity will be assured and maintained.

## **MEMORIAL**

This is a donor designated fund which is established in memory of someone named by the donor of the fund.

## **SCHOLARSHIPS**

The Scranton Area Foundation currently administers many different scholarships. These funds allow a donor to define the scholarship's advisory committee, guidelines for candidate selection and award use. Scholarships can benefit a particular educational institution or field of study. Many professional advisors find the creation of a scholarship fund within a community foundation the simplest and most cost effective alternative.

## **ORGANIZATIONAL ENDOWMENTS**

This type of fund is established when a non-profit organization agrees to transfer all, or part, of its endowment to a designated fund within The Foundation. Organizational endowments can also be established by individual donors.

This partnership can bring investment economies of scale, expertise and reduced fund management costs to other non-profit organizations. We can work together to attract additional gifts to their endowment fund. We can protect an organization's hard-earned endowment and insure it is always available to support its charitable mission.

## **CHARITABLE TRUSTS**

The Foundation currently administers charitable remainder trusts. We can also receive income from charitable lead trusts.

These planned giving alternatives often create ideal situations for your clients. An overview of these options is presented next.

## ***PLANNED GIFTS***

Life income and other planned gifts create positive opportunities for your clients and local charities. These may be created during your client's lifetime, or by bequest. In most cases, The Foundation's size, permanence, flexibility and knowledge of local needs can provide value-added service to your clients. A general overview of life income and planned giving options follows:

### **CHARITABLE REMAINDER TRUST**

*A charitable remainder trust* pays to the donor (and/or another beneficiary) either a fixed or variable income for the beneficiary's life, or for a fixed term not to exceed twenty (20) years, or a combination of the two. When the trust term expires, the remainder is then distributed to a charitable beneficiary.

Charitable remainder trusts offer a great deal of flexibility. Payments can be made to the donor for life and then can be directed to a spouse or another beneficiary after the donor's death. A charitable remainder trust can be set up during one's lifetime or may be established by a will.

Charitable remainder trusts do not pay ordinary income tax. The income distributed to individuals is taxable to the income recipients. The principal is held for charitable purposes. If donors place highly appreciated securities in the trust, the trustee can sell them without having to pay the capital gains tax realized on the profits of the sale. Low-yielding stocks can be sold and the proceeds reinvested to produce higher income for the income beneficiary.

By creating a charitable remainder trust, your clients can enjoy a number of benefits, including professional management of the assets in the trust and a degree of financial protection. In addition, the client can receive a charitable income tax deduction depending on their age, length of the trust term, payout rate, frequency of payments, and applicable federal discount rate. Creating one of these trusts frequently enables donors to realize greater spendable income.

The Scranton Area Foundation may serve as trustee of a charitable remainder trust or as the beneficiary. Choosing the Foundation as the beneficiary gives your clients increased flexibility on the use of the charitable remainder.

## **CHARITABLE LEAD TRUST**

A *charitable lead trust* is the reverse of a charitable remainder trust. This type of trust can be created by a deed of a trust or a will. Donors can stipulate that an annuity or unitrust payment be made to a fund for any duration of years, after which the principal is paid to the donors or to any other noncharitable beneficiary.

Donors do not receive a charitable deduction for federal income tax purposes with the creation of a lead trust unless they choose to be taxed on the trust income (i.e., the income that will be paid to The Scranton Area Foundation). Some people find that the chance to take a federal income tax deduction in the initial year outweighs the disadvantage of paying taxes on the trust's income in later year. Donors can avoid a negative tax impact by funding the lead trust with tax-exempt securities.

A charitable lead trust does not tax the donors and their spouses on the trust's income and transfers the remainder of the assets to other family members allowing the ultimate transfer of the property to be made at a lower transfer tax cost. This mechanism is especially useful for property with capacity for appreciation. Charitable lead trusts are most sensible for a donor whose family can afford to relinquish the income from the gifted property during the term of the lead trust.

It is possible to establish a lead trust either during your client's lifetime or in a will. A charitable lead trust created in a will can substantially reduce the estate taxes payable at the time of death because of the charitable deduction for the Foundation's charitable interest in the annuity or unitrust payment. The value of the charitable interest depends on the length of the trust and the amount or percentage to be paid out each year. The saving in estate taxes means that family members may receive substantially more than if the property were left to them at your client's death.

Similarly, if a charitable lead trust is created during your client's lifetime, generally the income tax is eliminated on the income from the assets placed in the trust. Donors can also reduce the gift tax on the property eventually passing to their children or grandchildren.

## **LIFE ESTATES**

*Life estates* provide a way for your client to gift a residence or farm to The Scranton Area Foundation. Your client is entitled to a charitable income tax deduction for the present value of the remainder interest while escaping potential capital gains tax on the property's appreciation. The donor deeds the property to The Scranton Area Foundation and retains the right to

live in the home or on the farm until the donor's death. When the life estate terminates, the real estate is sold and the proceeds are used to support the organizations or purposes the client identified.

## **LIFE INSURANCE**

By assigning a *life insurance policy* to The Scranton Area Foundation, your clients can support the causes and charities they believe in. People often purchase life insurance when they need protection either for their family, business, or estate. Later in life, they may find that they do not need as much insurance. As a result, they sometimes find it desirable to use insurance policies to make charitable gifts.

Donors receive a federal income tax deduction for the amount of the cash surrender value in the year of the irrevocable transfer of the policy to the Foundation. Any type of fund may be established with an insurance policy. Life insurance enables donors to make a much larger gift than they might have thought possible, and a gift of insurance may not reduce their current stream of income.

## ***OTHER OPPORTUNITIES***

Often, one of your greatest opportunities to assist clients in maximizing the personal benefits of giving occurs when they are making other major business, personal, and financial decision. The following are options for charitable giving that your client may want to consider in some of these special situations.

### **TRANSFERRING A PRIVATE FOUNDATION**

As charitable donors, your clients may wish to create vehicles that allows them to maintain long-term involvement with charitable assets. A private foundation can be an attractive vehicle in the right circumstances. However, the disadvantages of private foundations, including costs, administration, and lesser tax benefits, cause many people to seek a better alternative.

The Scranton Area Foundation can help donors secure maximum tax deductions, involve family members, and focus their grantmaking. While some donors may find a private foundation suited to their needs, the alternative of establishing a fund within The Scranton Area Foundation is often attractive.

Existing private foundations can also be easily transferred to a named endowment fund within the Foundation.

## **FORMING A SUPPORTING ORGANIZATION**

Gifts to a supporting organization of The Scranton Area Foundation are fully deductible at the current fair market value, including publicly traded or closely held stock.

Supporting organization status (detailed in Internal Revenue Code Section 509(a)(3) and the related regulations) gives an organization many of the advantages of private foundation status. A supporting organization is a separate entity from The Scranton Area Foundation has its own board of trustees, makes its own decisions, and has its own Section 501(c)(3) tax-exempt status from the Internal Revenue Service.

The favorable tax status granted to supporting organizations result from the relationship between each supporting organization and The Scranton Area Foundation, a public charity. Supporting organizations are normally considered when donors are contemplating a multi-million dollar gift and when they want a significant amount of control over the donated asset.

## **CORPORATE FUNDS**

Corporations are often inundated with requests for contributions. This can result in an unfocused program of corporate giving and in a significant administrative expense. Some corporations may be unable to budget a consistent flow of charitable dollars. In addition, a corporation may wish to focus on a particular community problem, but find that the cost of the administrative time and efforts needed to do so is constraining.

By setting up a fund in The Scranton Area Foundation, corporations can simplify and focus the giving process. Staff is freed from the administrative details of charitable giving and may choose their level of involvement in grantmaking. The Scranton Area Foundation staff provides technical assistance and grantmaking services at a low cost and handles all administrative paperwork, check writing, and investment oversight. Ideally, the corporation may be able to expand its corporate giving programs without increasing staff.

A corporate donor advised fund can provide a dependable stream of income to meet the company's charitable obligations, even during years when cash flow is tight. In good times, the company can add to the fund providing flexibility to even out the highs and lows inherent in most businesses' financial fortunes.

The Foundation offers in-depth knowledge of the greater Lackawanna area, particularly in terms of the major issues affecting the nonprofit sector. The Foundation staff is familiar with many of the activities of the community's nonprofit organizations and consists of individuals with diverse academic backgrounds and experiences.

A corporation can establish a fund and ask the Foundation to distribute either principal, income, or a combination of both at varied times throughout the year. The corporation may make suggestions to the Foundation concerning specific grantees; it may ask the Foundation to follow specific guidelines in making grants from its fund; or it may give the Foundation full discretion over disbursements.

## ***ASSETS APPROPRIATE FOR CHARITABLE GIVING***

### **CASH**

Cash, usually in the form of a check, is the most common form for charitable gifts. Cash gifts enable donors to claim a current income tax deduction of up to 50 percent of their adjusted gross income in the year the gift was given with a five-year carry-forward period. The actual savings from cash gifts is dependent upon the donor's tax bracket. The higher the tax bracket, the less the cost of the gift.

### **APPRECIATED SECURITIES**

Donors who contribute long term appreciated securities to the Foundation get a double federal tax benefit.

Gifts of appreciated securities are deductible at their full market value if they're held longer than twelve (12) months. Fair market value is the average of the high and low trades on the date of the gift.

The capital gains tax on the stock's appreciation (the difference between the stock's cost and its present fair market value) is completely avoided.

The fair market value of the donated stock can be deducted up to 30 percent of the donor's adjusted gross income, with a five-year carry-forward if required.

## **CLOSELY HELD STOCK**

Closely held stocks are shares in a privately owned business. The stock is usually owned by the family, top management, and the corporation.

The stock can be contributed outright to the Foundation and the donor is entitled to a deduction for the appraised fair market value. The donor also avoids the potential capital gains tax on any increase in the value of the stock.

Subsequent to the gift, the Foundation may sell the stock to the corporation or to other shareholders for cash. *There can be no prior agreement between the charity and a potential buyer before the gift is made.*

The donor is entitled to a deduction for the full value of the stock up to 30 percent of the donor's adjusted gross income. A "qualified appraisal" is required if the claimed value exceeds \$10,000.

## **LIFE INSURANCE**

Gifts of life insurance allow donors to make a future major gift to the Foundation at a relatively modest cost. Donors can name the Foundation as the owner and beneficiary of existing policies that they no longer need. Alternatively, donors may purchase new policies and name the Foundation as the owner and beneficiary. This type of donation entitles the donor to a federal income tax deduction in the amount of the cash surrender value of the policy in the year the gift is made.

## **MUTUAL FUNDS**

These funds can be an excellent asset to contribute to the Foundation. The fair market value of a mutual fund is its public redemption price on the valuation date. Gifts of mutual funds are deductible at their fair market value up to 30 percent of the donor's adjusted gross income, with a five-year carry-forward if required.

## **QUALIFIED RETIREMENT PLAN ASSETS**

Retirement plan assets (such as IRAs) can make excellent charitable gifts. Qualified retirement plans enjoy favorable tax treatment prior to retirement, but are severely taxed at the death of the plan participant. Plans may be subject to income tax, estate tax, and an excess accumulation tax, which can total 80 percent or more. In many cases, it may be advantageous to leave other assets to heirs and to name the Foundation as the beneficiary of the retirement plan. Estate income taxes can be avoided if the plan participant makes a gift to charity at death by beneficiary designation. If applicable, excess accumulations tax cannot be avoided.

***The Scranton Area Foundation:  
A Less Taxing Way to Give***

***A comparison between community foundations and private foundations***

	<u>Scranton Area Foundation: A Community Foundation</u>	<u>Private Foundation</u>
<b>Starting a fund</b>	quickly and simply established in as little as one day	time and effort required to create separate organization, and to apply for tax exemption and complete process
<b>Asset size</b>	any size asset is appropriate	typically established with substantial assets
<b>Tax deduction</b> • cash gifts	50% of adjusted gross income deductible	30% of adjusted gross income deductible
<b>Tax deduction</b> • closely held stock • publicly traded securities	full market value up to 30% of adjusted gross income deductible	closely held stock limited to cost basis up to 20% of adjusted gross income(private, non-operating foundations) 20% of full market value for publicly held stock
<b>Federal Income Tax</b>	no tax on investment income	2% annual excise tax on investment income
<b>Distributions</b>	no payout requirement. Able to accumulate income toward larger grant, if desired	required to distribute 5% of asset value regardless of investment earnings to avoid excise tax
<b>Tax exemptions &amp; Incorporation</b>	qualified as tax exempt corporation	required to apply for incorporation and tax exemption
<b>Funds Administration</b>	financial and administrative requirements addressed: - accounting and independent audit - tax returns - investment management and reporting - liability and office insurance	must separately purchase/implement all financial and administrative services
<b>Grant administration</b>	grant management conducted: - research grant programs and applicants - grant disbursement - grant performance reviews and evaluation	must carry out similar grant responsibilities or hire staff to do so
<b>Privacy</b>	donors may remain anonymous	public disclosure required
<b>Costs</b>	investment & community support fees under 2%	fees typically higher

# SAMPLE

## AGREEMENT ESTABLISHING THE \_\_\_\_\_ FUND OF THE SCRANTON AREA FOUNDATION, INC.

The undersigned hereby makes a gift of cash or securities listed in Schedule A Attached hereto, to the Scranton Area Foundation, Inc. (**Foundation**) for the purpose and under the conditions set forth below:

**A. Designation of Purpose:**

1. To establish the \_\_\_\_\_ Fund, (the "Fund") as a component part of the Scranton Area Foundation, Inc.

2. The Fund's income, outstanding as of January 1 of each year, or if greater, a percentage of the principal of the Fund, as determined from time to time by the Board of Governors of the **Foundation**, will be used for: \_\_\_\_\_  
\_\_\_\_\_ Any amount not expended in any year shall be added to the principal.

**B. Property of the Fund:**

The Fund shall include the property received herewith, and such property as may from time to time be transferred by any person, organization, or other source for inclusion in the Fund and accepted by the **Foundation**, and all undistributed income from the foregoing property. The Fund shall be the property of the **Foundation** and shall not be deemed a trust fund held by it as a trustee. The **Foundation** shall have the ultimate authority and control over all property in the Fund, and the income derived therefrom.

**C. Administration of Fund:**

The **Foundation**, through its Board of Governors, shall invest or reinvest the property or cash transferred to the Fund. The **Foundation**, at its discretion, may co-mingle the assets transferred to the Fund with any other assets which are transferred to the Fund and with any other assets which are transferred to the **Foundation** for other funds created by other organizations or individuals with the **Foundation**, excluding those investments made through a pooled income fund that may be established by the **Foundation**. In any case where property transferred to the Fund is co-mingled with other investments made by the **Foundation**, detailed accounting records shall be maintained by the **Foundation** specifically identifying the portion of the investments and income of the **Foundation** which is allocable to the Fund, and subject to the provisions of this **Agreement**. At the election of the **Foundation**, an accounting of the principal and income of the Fund shall be computed by a reasonable apportionment of the total principal amounts invested and the income earned by the **Foundation**, and tracing of assets and income shall not be required.

**D. Allocation of Principal and Income:**

- (1) The following shall be allocated to the Fund's principal during each fiscal year and shall not be paid as income:
  - (a) Gains from sale, exchange, redemption or other disposition of investments;
  - (b) Dividends received in the form of additional stock;
  - (c) Capital gains dividends of regulated investment companies (mutual funds);
  - (d) Liquidation distributions; and
  - (e) Any other dividends or distributions not deemed taxable as income under the Internal Revenue Code.
- (2) Any losses from the sale, exchange, redemption or other disposition of any investment are to be allocated to the Fund's principal.
- (3) If any interest bearing securities are acquired at a premium over the par of other stated value, the amount of the premium shall be amortized from the income so as to restore such amount to the Fund's principal.
- (4) Any sums received during the year with respect to the Fund's properties which are not specifically allocable to the Fund's principal as provided above shall be allocated to the income of the Fund.

**E. Fiscal Year:**

The fiscal year of the Fund shall be the fiscal year of the **Foundation** or as otherwise determined by the **Foundation's** Board of Governors.

**F. Matching Contributions:**

The **Foundation** agrees to make a matching contribution to the Fund as follows:

20%	of first	\$	25,000	(\$ 5,000)
5%	of next	\$	100,000	(\$ 5,000)
1%	of next	\$	500,000	(\$ 5,000)
1/2%	of next	\$	375,000	(\$ 1,875)

**G. Powers of Foundation with Respect to Property Contributed to the Fund:**

# SAMPLE

Without limitation, the **Foundation** shall have the right, power and authority to invest and reinvest the trust principal in any form of investment which the Board of *Governors* in its sole and absolute discretion shall determine without restriction as to the investments of the nature and kind prescribed by law for the investment of fiduciary funds; and the Board of *Governors* shall not be liable or responsible to any person or persons interested in the **Fund** for any depreciation in or loss of principal or income occasioned by any such investment or by the retention thereof.

H. Variance:

Any person making a gift to the **Fund** agrees that the **Fund** shall be subject to the provisions set forth in the **Foundation's** Articles of Incorporation and Bylaws or that of any successor organization, including the exercise of its discretionary powers to change the beneficiary of the **Fund** or the restrictions of the **Fund** stated above consistent with its Articles of Incorporation.

I. Expenses Allocated to the Fund:

The income and properties of the **Fund** shall only be charged with payment of expenses which are directly incurred by the **Foundation** in investment and reinvestment of the **Fund's** properties and costs of distribution. In addition, the **Foundation** may annually charge the income of the **Fund** for administrative and overhead costs in the amount not to exceed one (1%) percent of the market value of the **Fund's** assets at the end of each calendar year.

DATED: \_\_\_\_\_

**ACCEPTANCE OF GIFT**

The **Scranton Area Foundation, Inc.** hereby accepts the above gift to establish the **Fund**. It is the intention of the **Foundation** to administer the **Fund** in the manner set forth in the Deed of Gift described above, subject to such changes as the law or changing circumstances may require over the years.

**Scranton Area Foundation, Inc.**

DATED: \_\_\_\_\_ by \_\_\_\_\_

Jeanne A. Bovard  
Director

Fund

**SCHEDULE "A"**

\$

# SAMPLE

## CHARITABLE REMAINDER UNITRUST

BETWEEN \_\_\_\_\_  
DONORS \_\_\_\_\_  
AND SCRANTON AREA FOUNDATION, INC., TRUSTEE

On this \_\_\_\_\_ day of \_\_\_\_\_ (hereinafter referred to as "the Donors")  
desiring to establish a charitable remainder unitrust, within the meaning of section 4 of Rev.Proc. 90-31 and sections 664(d)(2) and (3) of the Internal Revenue Code (hereinafter referred to as "the Code") hereby create the \_\_\_\_\_  
\_\_\_\_\_ CHARITABLE REMAINDER UNITRUST and designate the SCRANTON AREA FOUNDATION, INC. as the initial Trustee.

- Funding of Trust.** The Donors transfer to the Trustee the property described in Schedule A, and the Trustee accepts such property and agrees to hold, manage and distribute such property of the Trust under the terms set forth in this Trust instrument.
- Payment of Unitrust Amount.** The Trustee shall pay to \_\_\_\_\_, or the survivor of them, (hereinafter referred to as "the Recipient") in each taxable year of the Trust during the Recipient's life a unitrust amount equal to ( %) percent of the net fair market value of the assets of the Trust valued as of the first day of each taxable year of the Trust (the "valuation date"). The unitrust amount shall be paid in equal quarterly amounts on January 1, April 1, July 1, and October 1 from income and, to the extent that income is not sufficient, from principal. Any income of the Trust for a taxable year in excess of the unitrust amount shall be added to principal. If the net fair market value of the Trust assets is incorrectly determined, then within a reasonable period after the value is finally determined for Federal tax purposes, the Trustee shall pay to the Recipient (in the case of an undervaluation) or receive from the Recipient (in the case of an overvaluation) an amount equal to the difference between the unitrust amount properly payable and the unitrust amount actually paid.
- Proration of the Unitrust Amount.** In determining the unitrust amount, the Trustee shall prorate the same on a daily basis for a short taxable year and for the taxable year of the Recipient's death.
- Distribution to Charity.** Upon the death of the Recipient, the Trustee shall distribute all of the then principal and income of the Trust (other than any amount due Recipient or Recipient's estate under Paragraphs 2 and 3, above) to SCRANTON AREA FOUNDATION, INC.

The charity described above is hereinafter referred to as the "Charitable Organization." If the Charitable Organization is not an organization described in sections 170(b)(1)(A), 170(c), 2055(a) and 2522(a) of the Code at the time when any principal or income of the Trust is to be distributed to it, then the Trustee shall distribute such principal or income to such one or more organizations described in sections 170(b)(1)(A), 170(c), 2055(a), and 2522(a) as the Trustee shall select in its sole discretion.

- Additional Contributions.** If any additional contributions are made to the Trust after the initial contribution, the unitrust amount for the year in which the additional contribution is made shall be \_\_\_\_\_ ( %) percent of the sum of (a) the net fair market value of the Trust assets as of the first day of the taxable year (excluding the assets so added and any income from, or appreciation on, such assets) and (b) that proportion of the value of the assets so added that was excluded under (a) that the number of the days in the period that begins with the date of contribution and ends with the earlier of the last day of the taxable year or the Recipient's death bears to the number of days in the period that begins on the first day of such taxable year and ends with the earlier of the last day in such taxable year or the Recipient's death. In the case where there is no valuation date after the time of contribution, the assets so added shall be valued at the time of contribution.
- Prohibited Transactions.** The Income of the Trust for each taxable year shall be distributed at such time and in such manner as not to subject the Trust to tax under section 4942 of the Code. Except for the payment of the unitrust amount to the Recipient, the trustee shall not engage in any act of self-dealing, as

# SAMPLE

defined in section 4941(d), and shall not make any taxable expenditures, as defined in section 4945(d). The Trustee shall not make any investments that jeopardize the charitable purpose of the Trust, within the meaning of section 4944, or retain any excess business holdings, within the meaning of section 4943(c).

7. **Payment of Federal Estate and State Death Taxes.** The survivor unitrust interest of the surviving Recipient will take effect upon the death of the first Recipient only if the second Recipient furnishes the funds for payment of any federal estate taxes or state death taxes for which the Trustee may be liable upon the death of the first Recipient.
8. **Successor Trustee.** The Donors reserve the right to dismiss the Trustee and to appoint a successor Trustee.
9. **Taxable Year.** The taxable year of the Trust shall be the calendar year.
10. **Governing Law.** The operation of the Trust shall be governed by the laws of the Commonwealth of Pennsylvania. However, the Trustee is prohibited from exercising any power or discretion granted under said laws that would be inconsistent with the qualification of the Trust under sections 664(d)(2) and (3) of the Code and the corresponding regulations.
11. **Limited Power of Amendment.** The Trust is irrevocable. However, the Trustee shall have the power, acting alone, to amend the Trust in any manner required for the sole purpose of ensuring that the Trust qualifies and continues to qualify as a charitable remainder unitrust within the meaning of sections 664(d)(2) and (3) of the Code.
12. **Investment of Trust Assets.** Nothing in this Trust instrument shall be construed to restrict the Trustee from investing the Trust assets in a manner that could result in the annual realization of a reasonable amount of income or gain from the sale or disposition of Trust assets.

IN WITNESS WHEREOF, \_\_\_\_\_ Donors, and  
SCRANTON AREA FOUNDATION, INC., Trustee, have signed this Agreement the day and year first above written.

\_\_\_\_\_  
Donor

\_\_\_\_\_  
Donor

SCRANTON AREA FOUNDATION, INC.

By

\_\_\_\_\_  
Jeanne A. Bovard  
Director

# SAMPLE

## DONOR-ADVISED FUND Letter of Agreement

Scranton Area Foundation, Inc.  
Bank Towers, Suite 608  
321 Spruce Street  
Scranton, PA 18503

Attention: Jeanne A. Bovard, Director

Dear Jeanne:

I hereby deliver to the **SCRANTON AREA FOUNDATION, INC.** ("**Foundation**") the property described in the attached schedule to be used to establish a donor-advised component fund within the **Foundation** as follows:

1. The **Fund** created by this gift will be known as the \_\_\_\_\_ **Fund ("Fund")** and will be so identified by the **Foundation** in all relevant literature, reports, promotional material, and other public documents.

2. The **Fund** will include the property described in the attached schedule together with any contributions which may later be delivered to the **Foundation** by the undersigned or any other person when specified to be included in the **Fund** and accepted by the **Foundation**.

3. The **Foundation** agrees to make a matching contribution as follows:

20%	of first	\$	25,000	( \$ 5,000 )
5%	of next	\$	100,000	( \$ 5,000 )
1%	of next	\$	500,000	( \$ 5,000 )
1/2%	of next	\$	375,000	( \$ 1,875 )

4. The **Fund's** income, outstanding as of January 1 of each year, or if greater, a percentage of the principal of the **Fund** as determined from time to time by the Board of Governors of the **Scranton Area Foundation, Inc.** will be distributed at each year for those charitable purposes as the **Foundation** may determine and consistent with the exempt purposes of the **Foundation** set forth in the Articles of Incorporation and the Bylaws of the **Foundation** or any successor organization. I understand that \_\_\_\_\_ may from time to time recommend grants from the **Fund** exclusively for charitable purposes. These recommendations shall be in the form as attached hereto as Schedule "B" and are advisory only. The **Foundation** will not be bound by the recommendations.

5. The **Fund** will be the property of the **Foundation** and will not be deemed a separate trust fund held by it in a trustee capacity. It is intended that the **Fund** shall be a component part of the **Foundation** and that it shall be operated so as to conform to the requirements of the Internal Revenue Code and any regulations issued pursuant thereto so as not to jeopardize the **Foundation's** status as a qualified non-private charitable foundation.

6. The **Foundation**, at its discretion, may commingle the property of the **Fund** with the property of other component funds held by the **Foundation**, provided, however, that detailed accounting records shall be maintained by the **Foundation** specifically identifying the portion of the investments and income of the **Foundation** which are allocable to the **Fund**, the separate identity of the **Fund** will be maintained and distributions from the **Fund** will be clearly identified as such to the grantees. At the election of the **Foundation**, an accounting of the principal and income of the **Fund** may be computed by a reasonable apportionment of the total principal amounts invested and the income earned by the **Foundation** and tracing of assets and income shall not be required.

7. I understand that I am the advisor of the **Fund**. Upon my death, \_\_\_\_\_ if then living, shall be the advisors of the **Fund**. Upon their deaths, the disposition of the **Fund** will be at the discretion of the Board of Governors of the **Foundation**. We further acknowledge that the **Fund** may be merged at such time with the unrestricted **Fund** of the **Foundation**.

# SAMPLE

8. The income and properties of the **Fund** shall be charged only with payment of expenses which are directly incurred by the **Foundation** in investment and reinvestment of the **Fund's** properties and costs of distribution. In addition, the **Foundation** may annually charge the income of the **Fund** for administrative costs and overhead in the amount not to exceed one (1%) percent of the market value of the **Fund's** assets at the end of each calendar year.

9. The fiscal year of the **Fund** shall be the fiscal year of the **Foundation**.

Please indicate your acceptance of this donation in accordance with these terms and conditions by signing below and returning a copy of this letter to me.

Very truly yours,

\_\_\_\_\_

Accepted:  
SCRANTON AREA FOUNDATION, INC.

By \_\_\_\_\_  
Jeanne A. Bovared  
Director

Date: \_\_\_\_\_

## SCHEDULE "A"

Date \$

## SCHEDULE B DISTRIBUTION SUGGESTION FORM

To the Board of *Governors* of the Scranton Area Foundation, Inc.

I suggest that the Board of *Governors* review and approve the following distribution (s) from the \_\_\_\_\_ **Fund**.

Name and Address of Recipient Organization	Suggested Amount of Gift
_____	_____
_____	_____
_____	_____
_____	_____

Signature \_\_\_\_\_

Date \_\_\_\_\_

# SAMPLE

**AGREEMENT  
ESTABLISHING THE \_\_\_\_\_  
SCHOLARSHIP FUND  
OF THE SCRANTON AREA FOUNDATION, INC.**

The undersigned hereby makes a gift of cash or securities listed in Schedule A Attached hereto, to the Scranton Area Foundation, Inc. (**Foundation**) for the purpose and under the conditions set forth below:

**A. Designation of Purpose:**

1. To establish the \_\_\_\_\_ **Scholarship Fund**, (the "**Fund**") as a component part of the **Scranton Area Foundation, Inc.**

2. The **Fund's** income, outstanding as of January 1 of each year, or if greater, a percentage of the principal of the **Fund**, as determined from time to time by the Board of Governors of the **Foundation**, will be used for the \_\_\_\_\_ Scholarship which shall be presented annually to a qualified graduating senior at \_\_\_\_\_ for educational expenses at a college or university. Any amount not expended in any year shall be added to the principal.

**B. Selection and Administration Procedures:**

1. The Scholarship will be given to a student who shall be recommended by the School using the following guidelines:

- a. The student shall have demonstrated characteristics of:
  - 1. Academic achievement and/or honor student
  - 2. Good citizenship and service to others
  - 3. Leadership
- b. Financial need is not a stated criteria, but may be considered in selecting a candidate for the scholarship.

**C. Property of the Fund:**

The **Fund** shall include the property received herewith, and such property as may from time to time be transferred by any person, organization, or other source for inclusion in the **Fund** and accepted by the **Foundation**, and all undistributed income from the foregoing property. The **Fund** shall be the property of the **Foundation** and shall not be deemed a trust fund held by it as a trustee. The **Foundation** shall have the ultimate authority and control over all property in the **Fund**, and the income derived therefrom.

**D. Administration of Fund:**

The **Foundation**, through its Board of Governors, shall invest or reinvest the property or cash transferred to the **Fund**. The **Foundation**, at its discretion, may co-mingle the assets transferred to the **Fund** with any other assets which are transferred to the **Fund** and with any other assets which are transferred to the **Foundation** for other funds created by other organizations or individuals with the **Foundation**, excluding those investments made through a pooled income fund that may be established by the **Foundation**. In any case where property transferred to the **Fund** is co-mingled with other investments made by the **Foundation**, detailed accounting records shall be maintained by the **Foundation** specifically identifying the portion of the investments and income of the **Foundation** which is allocable to the **Fund**, and subject to the provisions of this **Agreement**. At the election of the **Foundation**, an accounting of the principal and income of the **Fund** shall be computed by a reasonable apportionment of the total principal amounts invested and the income earned by the **Foundation**, and tracing of assets and income shall not be required.

**E. Allocation of Principal and Income:**

- (1) The following shall be allocated to the **Fund's** principal during each fiscal year and shall not be paid as income:
  - (a) Gains from sale, exchange, redemption or other disposition of investments;
  - (b) Dividends received in the form of additional stock;
  - (c) Capital gains dividends of regulated investment companies (mutual funds);
  - (d) Liquidation distributions; and
  - (e) Any other dividends or distributions not deemed taxable as income under the Internal Revenue Code.
- (2) Any losses from the sale, exchange, redemption or other disposition of any investment are to be allocated to the **Fund's** principal.
- (3) If any interest bearing securities are acquired at a premium over the par of other stated value, the amount of the premium shall be amortized from the income so as to restore such amount to the **Fund's** principal.
- (4) Any sums received during the year with respect to the **Fund's** properties which are not specifically allocable to the **Fund's** principal as provided above shall be allocated to the income of the **Fund**.

# SAMPLE

**F. Fiscal Year:**

The fiscal year of the **Fund** shall be the fiscal year of the **Foundation** or as otherwise determined by the **Foundation's** Board of Governors.

**G. Matching Contributions:**

The **Foundation** agrees to make a matching contribution to the **Fund** as follows:

20%	of first	\$	25,000	( \$ 5,000 )
5%	of next	\$	100,000	( \$ 5,000 )
1%	of next	\$	500,000	( \$ 5,000 )
1/2%	of next	\$	375,000	( \$ 1,875 )

**H. Powers of Foundation with Respect to Property Contributed to Fund:**

Without limitation, the **Foundation** shall have the right, power and authority to invest and reinvest the trust principal in any form of investment which the Board of Governors in its sole and absolute discretion shall determine without restriction as to the investments of the nature and kind prescribed by law for the investment of fiduciary funds; and the Board of Governors shall not be liable or responsible to any person or persons interested in the **Fund** for any depreciation in or loss of principal or income occasioned by any such investment or by the retention thereof.

**I. Variance:**

Any person making a gift to the **Fund** agrees that the **Fund** shall be subject to the provisions set forth in the **Foundation's** Articles of Incorporation and Bylaws or that of any successor organization, including the exercise of its discretionary powers to change the beneficiary of the **Fund** or the restrictions of the **Fund** stated above consistent with its Articles of Incorporation.

**J. Expenses Allocated to the Fund:**

The income and properties of the **Fund** shall only be charged with payment of expenses which are directly incurred by the **Foundation** in investment and reinvestment of the **Fund's** properties and costs of distribution. In addition, the **Foundation** may annually charge the income of the **Fund** for administrative and overhead costs in the amount not to exceed one (1%) percent of the market value of the **Fund's** assets at the end of each calendar year.

DATED: \_\_\_\_\_

**ACCEPTANCE OF GIFT**

The **Scranton Area Foundation, Inc.** hereby accepts the above gift to establish the \_\_\_\_\_ **Scholarship Fund**. It is the intention of the **Foundation** to administer the **Fund** in the manner set forth in the **Deed of Gift** described above, subject to such changes as the law or changing circumstances may require over the years.

**Scranton Area Foundation, Inc.**

DATED: \_\_\_\_\_ by \_\_\_\_\_  
Jeanne A. Bovard  
Director

\_\_\_\_\_ SCHOLARSHIP FUND

**SCHEDULE "A"**

Date \$