

# **GIFT POLICY**

## **MESSIAH LUTHERAN CHURCH**

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TAX ID#: 41-1243855

### **I. PURPOSE**

This policy governs the acceptance of gifts by Messiah Lutheran Church and provides guidance to prospective donors and their advisors when making gifts to this congregation where all are invited to support our mission and ministry. The provisions of this policy apply to all gifts to Messiah Lutheran over and above regular giving, offering, or pledges, or specific campaign or initiative contributions. Gifts will be accepted when they support the mission, purpose, and procedures of Messiah Lutheran. Donors are encouraged to bless this congregation with gifts free of restrictions. All gifts will be considered based on the type of asset, gift transfer costs, donor restrictions, potential liabilities, mission, current needs, and other applicable factors. Messiah Lutheran shall accept only such gifts as are legal and consistent with the Messiah Lutheran Church Gift Policy, and applicable Bylaws and Constitution. While Messiah Lutheran does not provide tax advice, every effort will be made to assist donors in complying with the intents and purposes of the Internal Revenue Service (IRS) for allowing charitable tax benefits.

### **II. COMMITTEE GUIDELINES**

The Messiah Lutheran Church Council is charged with the responsibility of reviewing all gifts offered to this congregation and shall determine gift acceptance and use decisions. Gift decisions made by the Church Council shall be reported to the congregation at the annual meeting and, when required by the Constitution, presented to the congregation for final approval.

- A. Messiah Lutheran Church will accept unrestricted gifts and donor restricted gifts for specified programs and purposes, provided that such gifts are consistent with the stated mission, vision, policies and priorities of this congregation. Messiah Lutheran will not accept gifts that would result in losing its status as a US Internal Revenue Code Section 501(c)(3) nonprofit organization; are deemed by the Council too difficult or too expensive to administer; or be a liability, in relation to the gift value; would result in unacceptable consequences; or are for purposes outside the mission of this congregation.
- B. Messiah Lutheran, as a general rule, will convert all gifts to cash.
- C. Records of gift acceptance or decline and of gift use shall be audited within this body's standard audit procedures.
- D. Members of the Church Council shall complete a **Gift Worksheet** (see Exhibit A) to record the gift acceptance and use decisions.

- E. The Council shall offer appreciation for every donor's generosity, regardless of the decision to accept or decline the gift. Often that appreciation will begin with a verbal conversation with the donor or donor's estate but will be formalized through written notice sent by US Mail, or email with read receipt requested, and signed by a current Senior Pastor and Council President or their designee.
- F. Recognition of the donor should not be a condition of the gift. It is the general practice of this congregation to not include inscriptions, plaques, or other naming considerations.
- G. If there are questions or concerns regarding any gift including the offer, acceptance, or use thereof, whether defined in this policy or not, the donor and/or the Church Council members are always encouraged to consult with the ELCA Foundation's Regional Gift Planner and advisory staff or other related professional.

### III. TYPES OF GIFTS CONSIDERED

The following examples are intended to facilitate donation and acceptance of gifts offered, albeit not intended to represent an exclusive list of potential gifts nor review criteria.

- A. **Potential Gifts.** A variety of gifts can be shared with this congregation and donors are encouraged to inform the Church Council and/or Endowment Committee of such gift plans whenever possible. Donors may also wish to work with an ELCA Foundation Regional Gift Planner. Some gifts will be accepted outright, and other gifts will be reviewed on a case-by-case basis according to the Constitution of this congregation. General categories of gifts include, but are not limited to:

- a. **Cash.** Gifts of cash will be accepted and are welcomed.
- b. **Beneficiary Designations.** Gifts of assets that transfer through beneficiary designation will be accepted. Types of beneficiary designation assets include, but are not limited to:
  - i. Bank and credit union accounts
  - ii. Bank accounts and investments of qualified or non-qualified status, including, but not limited to, annuities, mutual funds, and securities
  - iii. Charitable Gift Annuities
  - iv. Charitable Remainder Trusts
  - v. Charitable Lead Trusts
  - vi. Distribution Agreements
  - vii. Donor Advised Funds
  - viii. Endowments
  - ix. Life insurance policies

*NOTE: Sample beneficiary designation language... "Messiah Lutheran Church, a nonprofit organization located at 1706 Lee Boulevard, Federal Tax ID #41-1243855, for general use and purpose."*

- c. **Marketable Securities.** Gifts of marketable securities will be accepted when transferred electronically to a congregation-owned brokerage account; or delivered physically with the transferor's endorsement or signed stock power (with appropriate signature guarantees) attached; or transferred through the ELCA Foundation. All marketable securities will be sold promptly upon receipt unless otherwise directed. In some cases, marketable securities may be restricted by applicable securities laws, the terms of the proposed gift, or other stipulations. Types of publicly and non-publicly traded marketable securities include, but are not limited to:
- i. Bonds
  - ii. Master Limited Partnerships (MLP)
  - iii. Mutual Funds
  - iv. Real Estate Investment Trusts (REIT)
  - v. Stocks

*NOTE: Sample language when securities are transferred through the ELCA Foundation... "For Benefit Of: Messiah Lutheran Church, a nonprofit organization located at 1706 Lee Boulevard, Federal Tax ID #41-1243855."*

- d. **Life Insurance.** Gifts of life insurance will be accepted when this congregation is named as the sole owner of the insurance policy and an agreement is reached regarding the responsibility for payment of current and future premiums due. If the premium payments are not paid, the congregation, as policy owner, reserves the right to surrender the policy in exchange for the cash value to avoid loan balance accruals.

*NOTE: Sample life insurance transfer of ownership language... "I transfer sole ownership of life insurance contract ( contract # ) to: Messiah Lutheran Church, a nonprofit organization located at 1607 Lee Boulevard, Federal Tax ID #41-1243855."*

- e. **Bequests.** Gifts in the form of a bequest will be considered on a case-by-case basis. Types of bequests include, but are not limited to:
- i. Charitable Lead Trusts (CLT) or Charitable Remainder Trusts (CRT)
  - ii. Irrevocable Life Insurance Trusts (ILIT)
  - iii. Living or Revocable Trusts
  - iv. Testamentary Trusts or 'trust under will'
  - v. Wills

*NOTE: Sample bequest language... "I hereby give, devise and bequeath ten percent ( 10 %) of my total estate, to Messiah Lutheran Church, a nonprofit organization located at 1607 Lee Boulevard, Federal Tax ID #41-1243855, for general use and purpose."*

- f. **Real Estate.** Gifts of real estate will be considered on a case-by-case basis. The donor shall be required to present an appraisal to Messiah Lutheran Church no more than 60 days prior to the real estate transfer. Prior to acceptance of any gift of real estate, this congregation may require an initial environmental review. In the event that the environmental review warrants additional

investigation, this congregation may retain a qualified firm to conduct a comprehensive environmental audit. The donor shall be responsible for the costs of the appraisal and/or any environmental studies required as a result of the environmental review and/or audit. Types of real estate include, but are not limited to:

- i. Agricultural
- ii. Commercial
- iii. Residential
- iv. Undeveloped real estate

- g. **Remainder Interests in Property.** Gifts of a remainder interest in a personal residence, farm/ranch, or vacation property (excluding time share interests) will be considered on a case-by-case basis and shall be subject to the real estate provisions in this *Gift Policy Section III.f*. The donor or other occupants may continue to occupy the real property for the duration of their stated life or lives. Upon termination of the life interest, Messiah Lutheran Church may use the property or reduce it to cash. Where this congregation receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or life tenant(s). Types of remainder interests include, but are not limited to:

- i. Beneficiary Deeds
- ii. Enhanced Life Estate Deeds (aka Lady Bird deeds)
- iii. Life Estate Deeds
- iv. Transfer on Death Deeds

*NOTE: Availability and types of remainder interests in property are defined by current state law.*

- h. **Closely held business interests.** Gifts of closely held business interests will be considered on a case-by-case basis and shall be subject to the real estate provisions in this *Gift Policy Section III.f*. Types of closely held business interests include, but are not limited to:

- i. Limited Liability type organizations (LLC, LLP, etc.)
- ii. Partnerships
- iii. S-Corporations or shares
- iv. C-Corporations or shares
- v. Business options/warrants

- i. **Oil, Gas, and Mineral Interests and Royalties.** Gifts of oil, gas, or mineral interests and/or royalties will be considered on a case-by-case basis and shall be subject to the real estate provisions in this *Gift Policy Section III.f*.

*NOTE: A working interest shall not be accepted.*

- j. **Agricultural Commodities.** Gifts of commodities from cash basis farmers (excluding crop share landlords), including gifts of grain (e.g. soybeans, corn, wheat, et al.), will be considered on a case-by-case basis and shall be subject to the real estate provisions in this *Gift Policy Section III.f*., provided the gift is from

unsold crop inventory with no sale commitment made prior to the gift. The donor must give up “dominion and control” of the commodity and cannot sell the grain and order the proceeds to be sent to Messiah Lutheran. This congregation assumes risk after the transfer to include storage, transportation, and marketing costs as well as price risk. The transaction must be well documented to show Messiah Lutheran as the owner (i.e., commodity is delivered and a warehouse receipt is executed to the congregation, or a notarized letter of transfer for crops stored on the farm).

- k. **Intellectual Property.** Gifts of intellectual property will be considered on a case-by-case basis. The donor and this congregation are encouraged to consult with an estate attorney/legal counsel before offering and/or accepting this gift. Types of intellectual property include, but are not limited to:
  - i. Copyrights
  - ii. Patents
  - iii. Trademarks
- l. **Tangible Personal Property.** Gifts of tangible personal property will be considered on a case-by-case basis.
- m. **In-Kind Donations.** Gifts of in-kind goods or services given by a business or business owner, or a donor willing to pay for such goods or services on behalf of Messiah Lutheran Church, will be considered on a case-by-case basis. In-Kind donations will be acknowledged in writing by this congregation, but as per Internal Revenue Service (IRS) Guidelines, will not be valued by, nor provided a receipt for charitable contribution by this congregation.

**B. Gift Review Criteria**

- Does the gift further the mission or help fulfill the purpose of this congregation?
- Is the gift easy to convert to cash, readily marketable, or are there restrictions on the use, display, or sale of the gift?
- Are there covenants, conditions, restrictions, reservations, easements, encumbrance, or other limitations associated with the gift?
- Are there any carrying costs (e.g. insurance, property or other taxes, mortgages, or notes), or maintenance expenses that outweigh the benefit of the gift?
- Does the environmental review or audit reflect that the property warrants additional investigation or otherwise requires remediation?
- Does the property have liabilities or other considerations that make receipt of the gift inappropriate?
- Any other criteria determined to be applicable by the Church Council.

**IV. GIFT VALUATION AND DEPOSIT**

- a. **Gift Valuation.** Gifts of real estate and personal property, acquiring an independent assessment or appraisal shall be the responsibility of the donor or donor’s estate.

This may be facilitated by the Council to determine the comprehensive evaluation and impact of the gift. Appraisal of all non-cash gifts must take place within 60 days. NOTE: The ELCA Foundation can be a resource to help determine the necessary appraisal information.

## V. USE OF UNRESTRICTED GIFTS

An unrestricted gift is given without any stipulation for its use and is accepted to support the mission and ministry of Messiah Lutheran Church. All unrestricted gifts shall be used to address the mission and ministry of this congregation. The Church Council will determine the best use of the gifts based on ministry priorities at the time the gift is received.

This congregation shall promptly offer a contribution of ten percent (10%) of the total gift to the Messiah Lutheran Scholarship Fund. These funds are administered by the Endowment Committee following the guidelines set forth in the *Messiah Lutheran Scholarship Policy*.

Options for use of the gift that the Council may consider include but are not limited to:

- a. Offering an outside gift of ten percent (10%) of the total gift, often referred to as a tithe. This tithe may be shared with one or more of the following organizations:
  - The Southeastern Minnesota Synod of the ELCA.
  - An ELCA Churchwide organization or program, such as World Hunger, Missions, Lutheran Disaster Response, Lutheran Immigration and Refugee Services
  - An ELCA-related organization or program, such as Lutheran Campus Ministry or an Outdoor Ministry program
  - Local charitable organizations.
- b. A contribution of ten percent (10%) or more of the total gift to the Messiah Lutheran Endowment Fund.
- c. A contribution of ten percent (10%) or more of the total gift to the Reserve Fund with a maximum contribution amount that would not exceed an account value equal to six (6) months of the annual operating budget.
- d. A contribution of ten percent (10%) or more of the total gift to designated spending categories:
  - Ministry needs within our organization:
    - Any programs of this organization, now and in the future
    - Buildings/maintenance
    - Capital expense projects
    - Children/youth programs
    - Christian education
    - Congregation Council/Pastoral Discretionary Fund
    - Debt reduction
    - Office equipment/furniture/technology updates
    - Worship/music programs
    - Other(s)
  - Outreach beyond our organization:
    - ELCA Synodical programs

- ELCA Churchwide programs
- ELCA related organizations (outdoor ministry, campus ministry, social ministry, etc.)
- Other non-ELCA related charities

## VI. USE OF RESTRICTED GIFTS AND GUIDELINES

A restricted gift is given with specific stipulations for its use and is accepted to support the mission and ministry of this congregation through the donors defined restrictions. Gifts with specific donor defined restrictions will be considered on a case-by-case basis with the understanding that the funds are to be used as requested by the donor.

*NOTE: Donors may not direct the way a gift is invested or utilized by this congregation. In accordance with the Internal Revenue Service, donors cannot claim tax favor or retain control over gifts to charity.*

- A. Donors should be aware that programs offered by this congregation may be discontinued, renamed, modified, or incorporated into other programs, therefore a donor who makes a restricted gift, whether in the form of a current gift or through an estate plan, is strongly encouraged to complete the ***Restriction and Release Form*** (see Exhibit B). The Committee shall make the *Restriction and Release Form* readily available in the office and through the website of this congregation.
- B. Restricted gifts established prior to the approval of this policy or received without the accompaniment of a *Restriction and Release Form* shall be reviewed by the Church Council, and potentially the Endowment Committee and this congregation to determine if the gift shall be accepted. This congregation may also consult legal counsel and this state's Attorney General to determine the requirements to lift a donor restriction if necessary.
- C. Donor Restricted Gifts to the Messiah Lutheran Endowment Fund:
  - a. Become an asset of this congregation.
    - Step 1:** The congregation shall apply the full proceeds of the gift to the restriction defined by the donor.
    - Step 2:** In the rare event the gift is unable to be used as intended by the donor due to a lack of funding, need, or program; and after a review period of at least twelve (12) months; and in alignment with the restriction release requirements of this congregation and this state, the gift may become unrestricted and the balance of the gift (including any accumulated interest) may be utilized as an unrestricted gift as described in the *Gift Policy Section V*.

## VII. ENDOWMENT COMMITTEE INVESTMENT INCOME

On an annual basis, the Messiah Lutheran Endowment Committee makes a determination as to the amount of investment income from the previous year that may be used for the mission and ministry of the church. This information is forwarded to the Church Council in the first quarter of the financial year. Initial authority for disbursement rests with the Endowment Committee. Requests for distribution are submitted to the committee using the **Request for Funding Form** (see Exhibit C). Final approval of disbursements is the responsibility of the church council.

**VIII. MEMORIAL AND HONORARY GIFTS**

Memorial and honorary gifts include gifts given in memory or honor of loved ones, friends, or others and may be unrestricted or restricted. Memorial and honorary gifts are subject to the same guidelines for gift acceptance, appreciation, valuation, and use as defined in the *Gift Policy Sections III, IV, V and VI*.

**IX. REPORTING OF GIFTS**

Gifts that have been received by Messiah Lutheran Church will be reported to the congregation on an annual basis as part of the Annual Report distributed prior to the Annual Meeting.

**X. GIFT POLICY REVIEW**

This policy shall be reviewed every three (3) years by the Church Council and Messiah Lutheran Endowment Committee prior to the Annual Meeting of the congregation. The initial review will commence in the year two thousand and twenty-one (2021).

**XI. RESOURCES**

The **ELCA Foundation**, through Regional Gift Planners and support staff, offer gift planning services at no charge to this congregation and their donors. Visit **[www.elca.org/foundation](http://www.elca.org/foundation)** or call **800-638-3522** to connect with the ELCA Foundation Regional Gift Planner that supports this congregation.

Donors are also encouraged to consult with their personal tax advisor, estate attorney and/or financial advisor for specific tax, legal, and investment information. Messiah Lutheran Church does not provide any tax, legal, or investment advice.

Date Approved:	3-14-21	Approved by:	Council	
Date Reviewed:		Reviewed by:		Approved by: