

## FAQ: ACQUISITION OF A NEW MUSEUM OBJECT

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**Guidelines for:** Curator of a Registered Collection (or other Authorized Representative as indicated on Registered Collection Resources Form).

**1. Q: Do I have to use the forms Museums & Collections Services provides, or can I create my own?**

A: Museums & Collections Services maintains a suite of up-to-date forms that meet current legal requirements. Policy states using the forms which are currently on the Forms Cabinet ensures the University of Alberta has legal ownership of objects. Use of these forms also ensures your documentation meets current legal and income tax requirements.

**2. Q: Is it necessary to include the “Tax Receipt Requested” box on the Donation Agreement?**

A: Yes, the Tax Receipt Requested should appear on the Donation Agreement; this refers to the ability of the University of Alberta to issue a Charitable Tax Receipt to donors. It is important that the Curator discusses potential tax receipts with the donor during the negotiation of the donation, rather than wait until the Donation Agreement is completed.

Museums & Collections Services recommends that Curator’s consult the *Considerations for Acquisition of a New Museum Object* during the negotiation phase of communication with a potential donor to ensure the Collection can meet any of their expectations (e.g. Charitable Tax Receipt, CCPERB Certification, etc.).

According to the Canadian Revenue Agency a charity is not required to issues an official donation receipt, however “the Canada Revenue Agency advises charities to notify potential donors of any circumstances in which they will not issue an official donation receipt. Donors cannot claim a charitable tax credit or deduction unless they have an official donation receipt.”<sup>1</sup>

**3. Q: Can we tie “tax shelter arrangement” to CRA rules in the Donation Agreement?**

A: The definition of a “tax shelter” is very complex, and may cause more confusion than it resolves on the Donation Agreement. It is important that the Donor discuss any arrangements they have with their tax professional. The University of Alberta, Curator’s, and Museums & Collections Services cannot offer advice on the benefits of specific income tax deductions.

Questions regarding this area of the Income Tax Act may be directed to the Office of Advancement, by first inquiring directly with Museums & Collections Services.

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<sup>1</sup> <http://www.cra-arc.gc.ca/chrts-gvng/dnrs/fq-eng.html#g5>

**4. Q: *If the object(s) is on site but we haven't finished the donation process, should I issue a receipt?***

A: Yes, a Deposit Receipt must always be issued if an object(s) is left on University of Alberta property. A Deposit Receipt is available for download from the Museums & Collections Services Forms Cabinet. The donor should always receive documentation that their property is on campus, but that this does not transfer ownership of the property.

**5. Q: *What do I do with the completed forms?***

A: A copy of forms signed and completed by Donor should be provided to the Donor for their records. Original forms and other documentation supporting the Transfer of Ownership must be maintained in an Accession File within the collection, which is the Designated Record Holder. Refer to Basic Museum Object Accessioning Procedure with Checklist.

**6. Q: *Is a scanned signature on a document (e.g. loan, donation, etc.) legally acceptable?***

A: Museums & Collections Services recommends an original signature is always obtained for all legal contracts. For circumstances where an original signature cannot be obtained, contact Museums & Collections Services for assistance.

**7. Q: *How long does it take for a donor to receive an income tax receipt?***

A: After all forms are completed and the legal transfer of ownership is completed, documentation should be provided to Museums & Collections Services for processing. Charitable Tax Receipts are issued for the date the ownership was legally transferred. We work directly with the Office of Advancement, and tax receipts are generally issued within approximately 30 days of our request. Keep in mind that during busy times such as the end of the year, and tax preparation time, these processing times can take longer.

**8. Q: *Can we accept a "split" donation, whereby the donor donates a portion of the object(s) value and we purchase the remainder?***

A: Yes. There is no legal or ethical reason a split donation cannot be accepted, as long as the donated portion is accepted at Fair Market Value. A Bill of Sale and Donation Agreement will be required to support the transfer of ownership. A Charitable Tax Receipt can be issued to the donor for the donation portion only, as established at Fair Market Value.

**9. Q: *Can a donation be broken down to reduce the value to under \$1000 so we can do an internal appraisal?***

A: A donor can donate material in smaller batches, over several donations over a reasonable period of time, and obtain a Charitable Tax Receipt each time they donate. Each time they make a donation would be considered a separate acquisition and require appropriate documentation. However, we are not able to "break up" into smaller batches a donation once it has been accepted.

**10. Q: *What if the donor is willing to accept a lower value, is that still fair market value?***

A: According to CRA guidelines, the fair market value (FMV) "is normally the highest price, expressed in dollars, that property would bring in an open and unrestricted market, between a willing buyer

and a willing seller who are both knowledgeable, informed, and prudent, and who are acting independently of each other.”<sup>2</sup> Given this definition, this scenario would not be considered a fair market value.

**11. Q: What happens if the donor does not wish to have an appraisal completed?**

A: If a donor does not wish to have a Charitable Tax Receipt, an object can be accepted without an appraisal. In order to establish FMV, and obtain a Charitable Tax Receipt, an appraisal must be conducted.

**12. Q: Can the University of Alberta issue an Income Tax Receipt to a US or International donor?**

A: The University of Alberta does maintain a US office. This office can accept donations on behalf of the University of Alberta and issue an IRS eligible Charitable Receipt for Fair Market Value. If you have a donor in the US asking for this, contact Museums & Collections Services and we can connect you with the appropriate person in the Office of Advancement. Generally, outside of Canadian and US donors, a tax receipt may be issued to a donor but it will not benefit them on their domestic income taxes. All donors should be encouraged to discuss these matters with their own financial expert as we cannot offer financial or legal advice.

**13. Q: We have been offered a donation, but the donor has requested that they will only make the donation if the appraisal is above a certain value. Can we do this?**

A: The decision to donate a museum object is up to the donor. However, the University’s standard practice is to not obtain an appraisal for the purpose of determining an object’s value as a condition of a donation offer, otherwise known as a donation with encumbrances. An appraisal may be completed after a Donation Agreement has been signed to prevent this.

**14. Q: Our Collection does not have a budget to cover the cost of the appraisal, but we require an appraisal to obtain a Charitable Tax Receipt for the donor. What do I do?**

A: The cost of the appraisal is the responsibility of the Registered Collection. A donor may donate the amount of the fee for the appraisal to the University of Alberta, and receive a Charitable Tax Receipt for a gift-in-kind of that amount. There is no central fund for the cost of appraisals.

If a collection has no resources for an appraisal, there are limited options for the collection. The cost of an appraisal can range from \$250-\$1000 or more, depending on the appraiser. A few options are:

- Advising the Donor of the cost of the appraisal. The Donor may wish to provide a cash donation to the collection, for which a Charitable Tax Receipt can be offered;
- Seeking Department/Faculty funding to support the cost of appraisals annually in the operational budget;
- Locate colleagues in similar institutions, who are willing to offer appraisals pro bono. You may be asked to provide a reciprocal service based on your area of expertise.

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<sup>2</sup> <http://www.cra-arc.gc.ca/chrts-gvng/chrts/prtng/rcpts/dtrmnfmv-eng.html>

**15. Q: Can I accept a donation from the Government of Alberta, or another public institution?**

A: Accepting an object or collection from the Government of Alberta or another public institution is a transfer or exchange, and cannot be processed as a donation. Contact Museums & Collections Services for support in documenting the transfer appropriately.

**16. Q: When dealing with a donation offer that we know or suspect has been illegally collected/acquired, how do we respond? Are we obligated to report?**

A: Currently, the University of Alberta does not have a mandated response to these situations. In certain disciplines (i.e. art) we are obligated to report specific items. If you believe the object may have been acquired by theft or illicit trafficking, the appropriate authorities should generally be contacted. Please contact Museums & Collections Services for assistance in these instances. We will assist in the navigation of reporting to the appropriate parties. In addition, we will maintain a register of these types of inquiries, to ensure all Curator's on campus are familiar with historically declined offers.

For materials that may have been collected or obtained in a manner that is not theft (e.g. obtained without the proper permit, obtained prior to current legislation, obtained internationally where collection laws vary, etc.), we are not obligated to report material. Museums & Collections Services should be contacted for assistance, to ensure that the University of Alberta obtains appropriate title transfer in these situations.

Items that are targets for theft and illicit trade include: fine art, archaeological materials, meteorites, "moon rocks", products from endangered species, rhino horn, Mongolian dinosaur bones. Offers of these materials should be carefully researched before accepting them.

Information repositories are kept internationally include:

National Stolen Art File (FBI) [http://www.fbi.gov/about-us/investigate/vc\\_majorthefts/arttheft](http://www.fbi.gov/about-us/investigate/vc_majorthefts/arttheft)

The Art Loss Register: <http://www.artloss.com/en>

Interpol Database of Stolen Works of Art: <http://www.interpol.int/Crime-areas/Works-of-art/Works-of-art>

Central Registry of Information on Looted Cultural Property 1933-1945:

<http://www.lootedart.com/search2.php>

Lost Treasures from Iraq: <http://oi.uchicago.edu/OI/IRAQ/iraq.html>

Antique Tribal Art Dealers Association (ATADA) Theft Page: <http://www.atada.org/theft.html>

**17. Q: We have been offered a specimen that is contained on one of the CITES Appendices. Can we accept it and provide a Charitable Tax Receipt?**

A: The CITES Appendices restricts the international sale and exchange of listed materials outside of scientific institutions. This does not prevent collections such as ours from accepting specimens with a known provenance and collection history into our permanent collections. CITES encourages these

materials become part of a repository such as ours from private collections to prevent future illicit trade and sale. Often, the specimens we are offered were collected prior to CITES, and were obtained legally, therefore there is no reason to restrict accepting them as a donation. If there is concern that the specimen was not collected legally, we discourage accepting the material.

Since there is no legal market for these specimens, Fair Market Value can only be established as the cost of mounting and taxidermy. Therefore, a Charitable Tax Receipt may be issued for the cost of these procedures substantiated by a qualified appraisal, rather than for a trade value of the specimen.

**18. Q: *Is the negotiation with a potential donor confidential?***

A: From a legal standpoint, under the Canadian Charter of Rights and Freedoms, there is an ethical duty of confidentiality on the part of an individual or organization to safeguard entrusted information. The details of the negotiation between a donor and the University of Alberta are effectively confidential and should not be made public in any way.

In addition, we must adhere to FOIP Legislation regarding personal information. Therefore, we must obtain permission to collect personal information from donors, and protect that personal information.

**19. Q: *Can a donor make an anonymous gift? Will an anonymous donor still receive a Charitable Tax Receipt?***

With regard to anonymity of a donor and the details of their gift, the Office of Advancement offers the following explanation:

“The term 'anonymous gift' is in regards to the University's recognition of donors. Anonymous donors must list their personal information for tax purposes, but that information will remain confidential [within the appropriate University units]. In all University and public announcements, the donation will be listed as anonymous if requested by the donor.”<sup>3</sup>

**20. Q: *What do I do after acquiring the object legally?***

A: Object(s) should be assigned a unique identification number, an accession record should be created, an accession file should be created, and the object(s) should be safely and securely stored. The Basic Museum Object Accessioning Procedure with Checklist offers a basic guideline.

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<sup>3</sup> <http://www.giving.ualberta.ca/en/FAQ.aspx#anonymous>