

#### **457.400 Gifts.**

- (1) In this section, a gift "for the benefit of" a person includes a gift to a trust, an account under the Uniform Transfers to Minors Act (1983/1986), and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code Section 529, 26 U.S.C. sec. 529, as amended.
- (2) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to gifts authorizes the agent only to:
  - (a) Make outright to, or for the benefit of, a person, a gift of any of the principal's property, including by the exercise of a presently exercisable general power of appointment held by the principal, in an amount per donee not to exceed the annual dollar limits of the federal gift tax exclusion under Internal Revenue Code Section 2503(b), 26 U.S.C. sec. 2503(b), as amended, without regard to whether the federal gift tax exclusion applies to the gift, or if the principal's spouse agrees to consent to a split gift pursuant to Internal Revenue Code Section 2513, 26 U.S.C. sec. 2513, as amended, in an amount per donee not to exceed twice the annual federal gift tax exclusion limit; and
  - (b) Consent, pursuant to Internal Revenue Code Section 2513, 26 U.S.C. sec. 2513, as amended, to the splitting of a gift made by the principal's spouse in an amount per donee not to exceed the aggregate annual gift tax exclusions for both spouses.
- (3) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interest based on all relevant factors, including:
  - (a) The value and nature of the principal's property;
  - (b) The principal's foreseeable obligations and need for maintenance;
  - (c) Minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;
  - (d) Eligibility for a benefit, a program, or assistance under a statute or regulation; and
  - (e) The principal's personal history of making or joining in making gifts.

**Effective:** July 15, 2020

**History:** Created 2020 Ky. Acts ch. 41, sec. 59, effective July 15, 2020.