

WHAT IS MARKET VALUE?

Market value is the retail price that you, the recipient of the gift, would have to pay to purchase it. If you cannot readily determine the retail value of a gift, you may estimate its value by consulting the retail cost of items of similar quality. If a ticket entitles you to food, refreshments, entertainment, or any other benefit, the market value is the face value printed on the ticket.

Discounts

Q: I doubt that discounts available to the public or offered to *all* Government employees would be prohibited. But what about discounts that are offered only to certain groups of Government employees, like all of the computer specialists at my agency?

A: First, you are correct in noting that discounts offered to the public or to *all* Government employees are *not* considered to be gifts for purposes of the gift rule. You are also correct to question whether Government employees may accept discounts that discriminate among Government employees on the basis of type of official responsibility, or rank, or rate of pay. These types of discounts, because they are limited or targeted, would be gifts for purposes of the gift rule and could only be accepted if an exception applied. There are several rather specific exceptions that would allow Government employees to accept discounts (e.g., reduced membership fees or similar benefits) offered to limited groups or classes of Government employees (e.g., employee associations or agency credit unions) under certain circumstances. However, before applying any of these exceptions to your situation, you should probably seek an ethics official's advice.

Gifts of Free Attendance

Q: I sometimes receive invitations of free attendance for events hosted by private sector companies and other sponsors that do business with my agency. These events are very useful for both me and the agency because I learn about industry trends and make professional contacts. If my supervisor approves of me attending these kinds of events, is it okay for me to accept the offer of free attendance?

A: You may be able to accept the offer of free attendance based on the exception for certain widely attended gatherings. An ethics official or other authorized individual must make a determination that your attendance is in the agency's interest because it will benefit agency programs and operations. Other factors to be considered are: the source of the invitation and whether that person has interests that may be substantially affected by the performance (or nonperformance) of your official duties; the number and identity of other participants expected to attend; and the market value of the gift of free attendance. Note that this exception does not permit you to accept travel and lodging expenses, although these items may be accepted under other authorities.

Limitations on the Use of the Exceptions

Q: If there's an exception that allows me to accept a gift, is it always appropriate to use the exception?

A: Not always. You may never accept a gift for being influenced in the performance of an official act; you may never solicit or coerce the offering of a gift; and you may not accept gifts from the same or different sources so frequently that it appears you are using your public office for private gain.

Disposing of a Gift

Q: What do I do with a gift that I cannot accept?

A: You may pay the donor market value for the gift if you want to keep it. If not, you may return it. If the gift is perishable, such as food or flowers, it may be shared within your office, donated to charity or destroyed, as long as an ethics official or your supervisor grants approval.

Seeking Advice

Q: Anything else I need to be aware of?

A: If you have any questions regarding gifts, always seek your ethics official's advice. Even if a gift falls under one of the exceptions to the gift rule, it is never inappropriate and frequently prudent for you to decline a gift offered by a prohibited source or given because of your official position, especially when the gift is offered by a person or organization whose interests could be affected by your official actions.

Note: The gifts from outside sources rule is found in 5 C.F.R. part 2635, subpart B.

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GIFTS FROM OUTSIDE SOURCES



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GIFTS FROM OUTSIDE SOURCES



Most executive branch employees know there are rules about whether or when they may receive gifts from outside sources. This pamphlet provides a brief overview of those gift rules by answering some of the frequently asked questions concerning gifts from outside sources.

WHAT IS A GIFT?

Almost anything of monetary value, such as cash, meals, paperweights, trips, concert tickets, and services.

WHAT IS NOT A GIFT?

A cup of coffee, modest refreshments which are not part of a meal, and items of little intrinsic value such as greeting cards, or plaques and certificates intended solely for presentation. These, among other things, may be accepted without worrying about who is giving them to you or why.

The Basic Rule

Q: What is the basic gift rule that applies to me as a Federal employee?

A: As an employee of the executive branch, you may not solicit or accept a gift that is given because of your official position or that is given to you by a **prohibited source**, unless the item

is either not considered to be a gift or falls within one of the exceptions to the basic rule.

WHAT IS A PROHIBITED SOURCE?

A person or organization that seeks official action by your agency; does business or seeks to do business with your agency; has activities that are regulated by your agency; or has interests that may be affected by you when you are doing your job. This includes any organization the majority of whose members are described within one of these categories.

Some Exceptions to the Basic Rule

The \$20/\$50 Exception

Q: Can I accept any gift as long as it is not worth more than \$20?

A: Almost. The exception allows you to accept gifts of \$20 or less on a single occasion, but remember, not more than \$50 per year per source. (The source is the entire organization, so you may not accept gifts exceeding the \$50 per year per source limit just because different employees in the same organization pay for them each time.) If several gifts are given to you at the same time, you may keep those items whose total value when added together does not exceed \$20. You may never accept gifts of cash, and you may not pay the

difference for gifts exceeding the \$20 limit. Finally, you may not accept gifts so frequently that you appear to be using your public office for personal gain.

Q: Why a \$20 limit?

A: The \$20 limit was designed to be reasonable and simple. Reasonable, because it allows employees to accept gifts that most people would agree are inconsequential. Simple, because it's an easy standard to apply.

Q: Is there a more generous exception for holiday celebrations? Every year, some prohibited sources host holiday parties and invite employees from our office and throughout our agency to attend. Normally, the cost is \$25 or \$30 per person.

A: There is no special exception for holiday celebrations. If the cost of attendance exceeds \$20, then obviously you may not accept an invitation to attend using the \$20 exception. Your ethics official can advise you whether any of the other gift exceptions or exclusions apply.

Q: I work in a Federal facility alongside employees of a company that is an agency contractor. I recently got married and the contractor employees want to contribute money to purchase a microwave oven for me as a wedding gift. Could I accept that gift?

A: No. The \$20 exception to the gift rule states that an employee may accept gifts

having an aggregate market value of \$20 or less "per occasion." Accordingly, an employee may not use this exception to accept a gift worth more than \$20 regardless of how many people contributed toward it.

Gifts from Family and Friends

Q: My brother-in-law works for a firm that does business with my agency. May I accept a gift from him?

A: Sure, as long as the gift is clearly motivated by a personal relationship and your brother-in-law, and not his firm, pays for the gift. We sometimes call this personal relationship exception the "family and friends" exception.

Q: Let's say that one of my long-time close friends performs contract work for my agency and is therefore a prohibited source. May I use the "family and friends" exception to accept gifts from her, or should I apply the \$20/\$50 limit?

A: Again, as long as the circumstances make it clear that the gift is motivated by a personal friendship rather than your position with the Government, you may accept any gift from your friend using the "family and friends" exception. Relevant factors to consider include the history of the relationship and whether the friend personally pays for the gift. If you have any reason to suspect either the motivation or the source of payment for the gift, you can always decline the gift, pay the **market value** for it, or abide by the \$20/\$50 limit.