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ONE HUNDRED EIGHTEENTH CONGRESS

**U.S. House of Representatives**

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**MEMORANDUM FOR ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES**

FROM: Committee on Ethics  
Michael Guest, Chairman  
Susan Wild, Ranking Member

SUBJECT: Holiday Guidance on the Gift Rule

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The House Gift Rule applies to all Members,<sup>1</sup> officers, and employees (Members and staff) at all times, even during the holiday season.<sup>2</sup> This memorandum does not announce new rules or guidance but is simply a reminder of some of the restrictions of the Gift Rule and some of the more common questions that arise during the holiday season. This guidance does not cover every situation. As a result, if you are unsure about a particular situation, please contact the Committee staff at (202) 225-7103.

**Overview of the Gift Rule and Other Gift Statutes**

Members and staff may not accept any gift, except as provided in the Gift Rule.<sup>3</sup> The rule defines the term “gift” broadly to include “a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.”<sup>4</sup> The Gift Rule contains numerous exceptions permitting Members and staff to accept gifts. There are certain gifts that staff may accept without limitation. For example, there are no restrictions on accepting gifts, including cash or cash equivalents, of any dollar value, from relatives.<sup>5</sup> There are also no restrictions on accepting personal holiday gifts from House co-workers and supervisors.

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<sup>1</sup> For all purposes in this memorandum, “Member” is defined to include any current Member, Delegate, or Resident Commissioner of the House of Representatives.

<sup>2</sup> House Rule 25, cl. 5. Generally, gifts to a Member or employee’s spouse, dependent child, or other family member are not subject to the Gift Rule unless there is reason to believe they are given because of the official position of the Member or employee and the Member or employee is aware of the gift. Even if a gift to a family member would be attributed to a Member or employee, a gift that falls within one of the specific exceptions to the rule may be accepted.

<sup>3</sup> House Rule 23, cl. 4 and House Rule 25, cl. 5.

<sup>4</sup> House Rule 25, cl. 5(a)(2)(A).

<sup>5</sup> The term “relative” is broadly defined, and it includes fiancés/fiancées and in-laws. *See* House Rule 25, cl. 5(a)(3)(C) (incorporating 5 U.S.C. § 13101(16)).

Generally, Members and supervisors may not accept gifts from their subordinates, and employees may not give gifts to their superiors.<sup>6</sup> However, the Committee has provided for a common-sense exception for voluntary gifts extended on special occasions such as holidays.<sup>7</sup> Accordingly, Members and supervisors may accept gifts from their subordinates that are customarily extended during the holiday season, and employees may give such gifts.

In certain circumstances, Members and staff must seek and receive written permission from the Committee on Ethics before accepting a gift (*i.e.*, gifts from personal friends over \$250). Members, senior staff, and other staff who are financial disclosure filers must also disclose the value of gifts received on their annual Financial Disclosure Statements in certain circumstances. These circumstances are explained more fully in the final two sections of this memorandum.

Although the Gift Rule defines what Members and staff may accept, it does not authorize them to ask for any gift. There is also a statutory gift provision, which prohibits Members and staff from asking for or accepting anything of value from anyone who seeks official action from the House, does business with the House, or has interests that may be substantially affected by the performance of official duties.<sup>8</sup> The statute also prohibits Members and staff from soliciting on behalf of other individuals or entities, other than political solicitations or certain solicitations for charity.

Brief descriptions of some of the common Gift Rule exceptions applicable to the holiday season are listed below. Remember, you may not accept gifts offered in exchange for official actions. This restriction applies to official actions you are asked to take in the future and in return for official actions you already took.<sup>9</sup>

### **Parties and Receptions**

During the holiday season, Members and staff may be invited as guests to parties or related events that are sponsored by individuals or organizations that have, or plan to have, business dealings before Congress. Provided the guidance below is followed, Members and staff may accept an invitation to the following:

- An event where the per person cost or ticket price (if sold) is **less than \$50**, provided
  - 1) The invitation is not from a federally registered lobbyist, foreign agent, or private entity that retains or employs such individuals; and

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<sup>6</sup> 5 U.S.C. § 7351.

<sup>7</sup> See Comm. on Ethics, *House Ethics Manual*, Gifts Chapter, XI.E, [https://ethics.house.gov/house-ethics-manual/gifts#\\_Gifts\\_from\\_other](https://ethics.house.gov/house-ethics-manual/gifts#_Gifts_from_other).

<sup>8</sup> 5 U.S.C. § 7353.

<sup>9</sup> See 5 U.S.C. § 7353(b)(2)(B); 18 U.S.C. § 201.

- 2) The total value of gifts or other invitations you accept from the host under this exception is less than \$100 for the calendar year. Any gift worth less than \$10 does not count towards the annual limitation.

Example: If an individual who is not a federally registered lobbyist invites you to their holiday dinner party and the cost of your meal before tax and tip is less than \$50, you may accept the meal under the “less than \$50 exception,” provided the aggregate value of all gifts and similar invitations you accept from the host does not exceed \$100 for the year.

- A non-business event, such as a holiday party, hosted by an individual, at the personal residence of that individual or the individual’s family, unless offered by a federally registered lobbyist or foreign agent.

Example: An individual who is not a federally registered lobbyist invites you to a holiday party at her personal residence to celebrate the holiday season. You may accept food and refreshments offered within the home under the **personal hospitality** exception.

- A **reception or open house**, provided that only food and refreshments of nominal value are offered other than as a part of a meal (e.g., light appetizers and beverages, including alcoholic beverages). This exception **does not** include full meals (whether or not you stand to eat or use silverware) or luxury or expensive food items. This exception also assumes that you will not consume what is offered such that it becomes a full meal.

Example: A firm that is federally registered as a lobbying firm invites you to attend a holiday reception to be held in its offices. It will serve appetizers and drinks at the reception. Provided that the food and refreshments are of “nominal value” and offered “other than as part of a meal,” you may attend and accept these items.

- An event where invitations are offered to a group or class in which membership is **unrelated to House employment**.

Example: Your college alumni association is having a holiday party for its members. You may attend as an alumnus of the college.

- An event that is **open to the public or to all federal employees**.

Example: A local park is having a free holiday concert that is open to the public. You may attend as a member of the public.

- An event where invitations are offered because of the **outside business or activity of the invitees or their spouses**, provided the invitation

- 1) was not offered or enhanced because of the individual’s House status; and

2) is customarily provided to others in similar circumstances.

Example: Your spouse’s employer is having a holiday party and all employees may bring their spouses as guests. You may attend as your spouse’s guest and receive the same food, refreshments, and entertainment that are provided to all attendees.

- A “**widely attended event**” provided
  - 1) The event relates to the Members’ or employees’ official duties;
  - 2) The invitation comes from the event sponsor;
  - 3) The sponsor has a reasonable expectation that at least 25 non-congressional invitees will be in attendance; and
  - 4) The event is open to the public or will be attended by a diverse group of individuals interested in a given topic.

Please note: **The widely attended event exception does not apply to campaign events, fundraisers, and holiday parties that are purely social or recreational in nature and not related to one’s official duties.**

- An event paid for by a **foreign government** valued at \$480 or less per person, per occasion. Under the Foreign Gifts and Decorations Act (FGDA), Members and staff may accept a souvenir or mark of courtesy.<sup>10</sup> The Committee has interpreted this provision to allow Members and staff to accept meals and entertainment in the United States.

Example: A foreign embassy in Washington, D.C., is having a holiday dinner at a local D.C. restaurant to foster inter-country relations. The cost of your meal will be \$100. You may accept the dinner under the FGDA.

- A holiday party for staff hosted by a Member of Congress using **personal funds or principal campaign committee funds**. For further guidance, please contact the congressional liaisons at the Federal Election Commission (FEC) at (202) 694-1006.

Example: A Chairwoman and Ranking Member would like to host a holiday party for their committee staff.<sup>11</sup> The Chairwoman and Ranking Member may use their principal campaign committee funds or personal funds to pay for the holiday party. Members and staff may attend the holiday party.

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<sup>10</sup> 5 U.S.C. § 7342.

<sup>11</sup> See *House Ethics Manual December 2022 Print* at 171.

## Other Holiday Gifts

In addition to the provisions discussed above, other Gift Rule exceptions may permit acceptance of holiday gifts. Provided the guidance below is followed, Members and staff may accept the following:

- Gifts (other than cash or cash equivalent) valued at **less than \$50**, provided
  - 1) The gift is not from a federally registered lobbyist, foreign agent, or private entity that retains or employs such individuals; and
  - 2) The total value of gifts you accept from the donor under this exception is less than \$100 for the year.

Please note: Gift cards and gift certificates are considered “cash equivalent” and **may not** be accepted under this exception.

Example: If an individual who is not a federally registered lobbyist gives you a \$40 pen set during the holiday season, you may accept the gift under the “less than \$50 exception.” However, the aggregate value of all gifts you accept from the donor under this exception may not exceed \$100 for the year.

Example: If an organization that does not employ a federally registered lobbyist sends perishable food, such as a fruit basket, to a House office for all the staff, the gift is considered a gift to the individual recipients and not to the employing Member. Each staff member may accept items from the fruit basket having a value of less than \$50, provided that no recipient accepts more than \$100 of gifts in the aggregate from the organization during the year.

- A **baseball hat, T-shirt**, or any **item valued at less than \$10**, even if from a lobbyist. This exception does **not** include food items.

Example: A company that employs a federally registered lobbyist sends the office 10 T-shirts along with a letter stating that one is to be given to the Member and any staff member that would like to receive one. The Member and staff may each accept one of the T-shirts under this exception.

- Gifts based on **personal friendship**. Members and staff may, without seeking Committee approval, accept a gift based on personal friendship if the gift’s market value is \$250 or less.<sup>12</sup> The following factors must be considered before accepting a gift under this exception:

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<sup>12</sup> You must seek Committee written approval before accepting a gift with a market value over \$250 under the personal friendship exception. Please see the section below regarding seeking written Committee approval for details on how to submit a request.

- 1) The history of the recipient’s relationship with the donor, including any previous exchange of gifts;
- 2) Whether the donor personally paid for the gift, or whether the donor sought a tax deduction or business reimbursement for it; and
- 3) Whether the donor gives the same or similar gifts to other Members or staff at the same time.

Example: Your former roommate, who is a real estate agent, offers you a \$100 ticket to a holiday play. The roommate personally paid for the ticket. You and the roommate have exchanged gifts throughout the years. The roommate does not contact you or your office on official matters. To the best of your knowledge, the roommate has not made a similar offer to other Members or staff. You may accept the ticket without seeking Committee approval.

- **Gifts from a foreign government** under the FGDA. As noted above, gifts valued at \$480 or less per person, per occasion, that are offered as a souvenir or mark of courtesy may be accepted.

Example: A French government official sends you a \$300 bottle of French champagne, on behalf of the French government. You may accept the champagne under the FGDA.

### Handling Unacceptable Gifts

At times, a gift may not be acceptable under the Gift Rule. For example, Members and staff may never accept a “thank you” gift. If Members or staff receive gifts that they may not accept under the Gift Rule, they may

- Pay the donor the “fair market value”<sup>13</sup> and keep the gift;
- Return the gift to the donor; or
- For perishable items (e.g., flowers or fresh food), donate the items to charity or destroy them. **You may not donate non-perishable items to charity in lieu of returning or paying for them.**
- If the return of a gift is impossible (e.g., if the identity of the donor is unknown) the recipient may “return” the item by donating it to charity or destroying it, or the recipient may keep the item by paying the fair market value to the U.S. Treasury.

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<sup>13</sup> Items are valued at market/retail, rather than wholesale, prices. For tickets, the fair market value is the cost printed on the ticket, regardless of whether the donor paid more or less. *House Ethics Manual*, Gifts Chapter, III, [https://ethics.house.gov/house-ethics-manual/gifts#\\_How\\_to\\_Value](https://ethics.house.gov/house-ethics-manual/gifts#_How_to_Value). If you pay fair market value for something, that item is no longer a gift. House Rule 25, cl. 5(a)(3)(A).

Please check with the Ethics Committee if you have any questions about whether the return of a particular gift is impossible.

Please note: For tickets to events that do not have a printed cost on the ticket, the value of the ticket is the highest cost of a ticket available through the venue with a face value for that particular event.

Example: You are invited to sit in the premium box for a concert by a friend of a friend. The offer does not meet one of the gift exceptions, but you would still like to attend. Your ticket does not have a price on it, but the highest ticket price available through the venue for that particular concert is \$285. You must pay the donor \$285 in order to accept the ticket.

Some provisions of the Gift Rule require knowledge of the identity of the donor to assess whether the gift may be accepted. For example, the exceptions with respect to gifts worth less than \$50 and for those authorized by the FGDA require knowledge of the donor's identity before accepting the gift because those provisions permit acceptance of gifts from donors who meet certain criteria. (Other Gift Rule exceptions, such as those that permit acceptance of nominal value gifts and informational materials, apply regardless of the identity of the donor, because they are not limited to certain types of donors.)

At times when a Member, officer, or employee is unexpectedly presented with a gift at an event, he or she may be uncertain whether it can be accepted under the Gift Rule. In that circumstance, the individual may receive the gift and wait until after the event to review the provisions of the Gift Rule and make a decision on the gift's acceptability.

### **Prior Written Committee Approval Required**

Members and staff must seek and receive written approval from the Committee on Ethics before accepting the following:

- A gift based on personal friendship with a market value over \$250. The Committee will only grant written approval for a personal friendship gift exceeding \$250 in value in response to a written request, using the form on the Committee's website for this purpose.
- A gift that is not otherwise acceptable, but that the Member or staffer believes the Committee should permit them to accept. The Committee has "flexibility to allow the acceptance of gifts . . . in cases where there is no potential conflict of interest or appearance of impropriety."<sup>14</sup> Thus, the House Gift Rule authorizes the Committee to grant a waiver to permit acceptance of a gift "in an unusual case."<sup>15</sup> Members and staff must submit a written request for a gift waiver from the Committee prior to

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<sup>14</sup> See HOUSE BIPARTISAN TASK FORCE ON ETHICS, 101st Cong. *Report on H.R. 3660*, 101st Cong., 1st Sess. (Comm Print 1989), *reprinted in* 135 CONG. REC. 30740, 30743 (daily ed. Nov. 21, 1989).

<sup>15</sup> House Rule 25, cl. 5(a)(3)(T).

accepting such a gift. Any request should include, at a minimum, a description of the gift, including its market value, the identity of the donor, and a statement of the reasons believed to justify acceptance of the gift.

### **Financial Disclosure Requirements**

Members and financial disclosure filers<sup>16</sup> must disclose certain gifts valued over \$480 from a single source in a calendar year on Schedule G (“Gifts”) of their annual Financial Disclosure Statements.<sup>17</sup> This disclosure must include the source of such gifts and a brief description of the gifts. Any gift with a market value of less than \$192 need not be counted towards the \$480 disclosure threshold.

Please note: Gifts from relatives, gifts of personal hospitality, tickets to widely attended events, and certain other gifts do not have to be reported on a Financial Disclosure Statement. In addition, gifts that are received by your spouse or children, independent of your House status, do not have to be disclosed. However, all other gifts that are over \$480 in value must be disclosed.

Example: Your spouse’s college roommate gives your spouse a \$500 coat as a holiday present. You would not have to report this gift on your Financial Disclosure Statement if you believe that the gift was given regardless of your House employment.

*If you have any questions, please contact the Committee’s Advice and Education staff at (202) 225-7103. Please read on for an exciting tune to remember the Gift Rule!*

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<sup>16</sup> House staff may be subject to financial disclosure filing requirements for a number of reasons, including 1) they are paid at or above the annual senior staff rate (\$141,022 for 2023, subject to change in future calendar years) for 60 days or more during the calendar year, even if on a temporary basis; 2) they are designated as a “principal assistant” for financial disclosure filing purposes by their employing Member; and 3) they are a shared employee of three or more offices, regardless of their rate of pay. Please contact the Committee if you have further questions about financial disclosure. See Ethics in Government Act (EIGA), 5 U.S.C. § 13101(13).

<sup>17</sup> 5 U.S.C. § 13104(a)(2).



# Ethics Holiday Song

Sung to the tune of "Winter Wonderland"



*Sleigh bells ring, are you listening  
Holidays, time for gifting  
The gift rule is strict  
But exceptions exist  
We wrote this song to help you understand*

*Going to a reception?  
What's offered? That's the question  
Enjoy drinks and apps  
But no meals at this bash  
A carving table would be contraband*

*Gifts worth less than ten dollars  
That aren't cash, food, or gift cards  
You may accept  
No need to reject  
But no gifts you solicit or demand*

*Going to a fundraiser?  
Or a meal, in your blazer?  
If the ticket is free  
Email the Committee  
We'll walk you through the rules so you can plan*

*Gifts from relatives are unrestricted  
This includes in-laws and fiancés  
It doesn't matter how much you are gifted  
Same for gifts from governmental entitaaaaays\*  
\*entities*

*Your dear friend may give you something nifty  
You decide if \$250 or less  
If the present costs more than \$250  
You'll need written approval to accept*

*Moving on, to less than \$50  
These gifts can be, rather iffy  
Depends who it's from  
If lobbyists, you should run  
Buy-downs, cash, and gift cards are all banned*

*There are still more exceptions  
And we're here for your questions  
Just give us a call  
And please know most of all,  
We're wishing you a holiday that's grand*