



GC Newsletter

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U.S. HOUSE PASSES GIFT BAN

On January 4, 2007, the U.S. House of Representatives adopted rules to govern the House for the 110th Congress. Included in the rules package were several measures aimed at government ethics reform, including gift bans, restrictions on privately funded travel, and earmark reform. This client alert deals with the gift ban--a strict new rule that will affect any corporation or trade association that employs or retains a registered federal lobbyist.

Ban on Gifts from Lobbyists

Under House rules, a "gift" means a gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. Gifts include services, training, transportation, lodging, meals, and entertainment whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

Under the new House rules, a Member, Delegate, Commissioner, officer or employee of the House may not knowingly accept a gift from a registered federal lobbyist or from a private entity that retains or employs a registered lobbyist. In other words, the old rule that allowed one-time gifts to Members and staff of less than \$50 and a cumulative gift value from one source during a calendar year of less than \$100 is gone.

However, the new House rules retained all of the old loopholes, including but not limited to gifts among family members, gifts between existing personal friends that are paid for with purely personal funds (no tax deduction or corporate reimbursement), trinkets and promotional items of nominal value, commemorative plaques and trophies, attendance at widely attended events, political contributions, and meals, tickets, and gifts received at political fundraisers (federal campaign finance rules still remain in effect, including a ban on direct corporate contributions to federal candidates).

Valuation of Tickets to Sporting and Entertainment Events

Under the old rules, certain sports and entertainment tickets were not necessarily valued at their fair market value. Under the new House rules, a gift of a ticket to a sporting or entertainment event is generally valued at the face value of the ticket. However, the price printed on the face of the ticket will only be deemed its face value if it is also reflects the price at which the ticket is offered for sale to the general public. If the ticket has no face value, the ticket should be valued at the highest cost of a ticket with a face value for the event. In other words, club or suite level tickets that were formerly valued at the non-fair market value price of \$49 (right below the former gift limit), should now be valued more like the most expensive tickets at sporting events and concerts. With few exceptions, therefore, sports and entertainment tickets should no longer be given away to any Member or staff of the House. Additionally, discounts from the face or market value of the ticket should be treated as gifts and generally prohibited. However, under the right conditions, sports and entertainment tickets may still be used by political action committees and individuals for political fundraisers involving Members and staff as long as federal campaign finance laws and regulations are strictly followed, including compliance with contribution limits and accurate reporting to the Federal Election Commission.



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Conclusion

The rules of the game have changed again. In order to comply with the new House gift rules, corporations or trade associations that retain or employ lobbyists and do not have gift compliance programs should create a compliance program and educate their employees now. Corporations and trade associations that already have compliance programs in place should update their programs and also train their employees regarding the new House rules.

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