

## FACT SHEET ON ACCEPTING TICKETS AND INVITATIONS

State and local laws regulate the acceptance of gifts, which include tickets and invitations to various events. This fact sheet is designed to offer general guidance regarding the acceptance of tickets and invitations, but should not be considered a substitute for the actual language contained in state and local law.

- ❖ Use the chart below for guidance on valuing tickets and invitations. Refer to the remainder of this Fact Sheet for more detailed information regarding the rules for different types of events.
- ❖ When using the valuation rules in the chart below, be sure to add the fair market value of any benefit you receive at the event that is not provided to all other attendees at the event.

|   | TICKETED EVENT  | INVITATION-ONLY EVENT   |
|---|---|---|
| <b>General Rule:</b>  | Face value of ticket  | Pro rata cost of food, beverages, catering services, feature entertainment, and tangible items provided to all attendees at the event                                     |
| <b>501(c)(3) Fundraiser:</b>  | No reportable value for <b>first 2 tickets</b> provided by host of event  |   |
| <b>Nonprofit Fundraiser:</b><br>(other than a 501(c)(3) fundraiser)     | Non-deductible portion of admission (see rules on page 5 when there is no official information regarding deductible amount)   |   |
| <b>Political Fundraiser:</b>  | No reportable value for <b>first 2 tickets</b> provided by candidate or committee   |   |
| <b>Giving Speech /<br/>Serving on Panel:</b>                            | No reportable value for admission, food, beverages, or nominal items provided by host of event  | Treated as “income” instead of a “gift” if services rendered by the official are equal or greater than value of benefits received. Income of \$500 or more is reportable. |
| <b>Ceremonial Role:</b><br>(e.g., cutting ribbon; throwing first pitch) | Admission is not a “gift,” but is reportable on Form 802. Tangible items (e.g., food, beverages) received by the official are gifts subject to reporting on a Form 700. | Pro rata cost of any meal received, plus value of any other specific items received. Form 802 reporting is not required   |
| <b>Drop-In Rule:</b>  | Face value of ticket (no exemption)   | Cost of any tangible items received other than food and beverages   |

## GENERAL RULES

- ❖ The rules discussed in this fact sheet pertain solely to tickets and invitations to events. For information concerning gifts in general, please refer to the Ethics Commission’s “Fact Sheet on Gifts to City Officials.”
- ❖ As with all gifts you receive, your first step should be to determine whether or not the source of the ticket or invitation is a source that you have to report on your Statement of Economic Interests.
  - ✓ If you are an elected official or are otherwise a “high level filer,” then every gift you receive is from a reportable source and is therefore subject to gift limits and reporting obligations.
  - ✓ On the other hand, if you file a Statement of Economic Interests pursuant to a conflict of interest code (a “code filer”), then only gifts from the reportable sources identified in your conflict of interest code are subject to gift limits and reporting obligations.
- ❖ Regardless of whether you are a “high level filer” or a “code filer,” there are some exceptions to the gift rules in the Ethics Ordinance that may apply to tickets or invitations you receive. For example, a pair of tickets to a ballgame that you receive from your spouse, former spouse, child, step-child, parent, grand-parent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, grand-nephew, niece, grand-niece, aunt, grand-aunt, uncle, grand-uncle, first cousin, first cousin once removed, or the spouse or former spouse of any such person, is not considered a “gift” under the Ethics Ordinance. Contact the Ethics Commission for assistance with potential exceptions.
- ❖ Tickets and invitations are the only gifts that can be negated by being thrown away. Tickets and invitations that are not used, and not transferred to another person, are not subject to gift limits or reporting obligations.
- ❖ You are required to report gifts from a reportable source only if the gifts have an aggregate value of \$50 or more within a calendar year. For this reason, you do not need to report two \$24 tickets to an event from the same source (so long as that source did not give you other gifts during the same calendar year).
- ❖ There are additional gift rules that pertain to disqualification. For more information regarding whether or not your acceptance of tickets or invitations may disqualify you from participating in a municipal decision, please refer to the Ethics Commission fact sheet entitled “Fact Sheet on Disqualification from Municipal Decisions – Part 4: Sources of Gifts.”
- ❖ The rules for “ticketed events” are often different from the rules applicable to “invitation-only events.” In addition, fundraising events have separate rules. These different rules are discussed below.

## TICKETED EVENTS (Open to the Public)

- ❖ A “ticket” provides admission or access to facilities, goods, services, and includes a pass to a movie theatre, playhouse, opera house, sporting event, amusement park, parking facility, country club, or similar places or events.
- ❖ “Ticketed events” are events to which admission is offered for sale to the general public.

- ❖ For purposes of this Fact Sheet, a “ticket” does not include anything that grants access to transportation or lodging. Please contact the Ethics Commission for assistance with the rules that pertain to travel payments.
- ❖ If you receive a ticket that provides one-time admission to a facility or event, the value of the gift is generally the face value of the ticket, provided that the face value is a price that was, or otherwise would have been, offered to the general public.
- ❖ “Face value” means the price indicated on the ticket, or if no price is indicated, the price at which the ticket would otherwise be offered for sale to the general public by the operator of the venue or host of the event.
- ❖ If you receive a pass that provides repeated admission (including a season ticket), the reportable value (and the value subject to the gift limit) is equal to the face value of an individual one-time admission multiplied by the actual use of the pass by the official and any other individuals who are admitted with the pass up to the face value of the pass.
- ❖ If you make a speech, participate on a panel at a seminar, or make a substantive formal presentation at a ticketed event, your admission to the event and any accompanying food, beverages, and nominal items (e.g., pens, mouse pads, stress balls) will not be considered a gift or income subject to disclosure. Note that for this exception to apply, the ticket must come from the event organizer, and the service you provide must be substantive; merely welcoming attendees or introducing another speaker is not sufficient.

#### **INVITATION-ONLY “GALA” EVENTS**

- ❖ “Invitation-only events” are gatherings of individuals who attend by invitation, where costs are incurred to hold the event beyond the costs of providing food and beverages. Such events include banquets, parties, galas, and similar functions to which a person may not gain admission unless being invited. Invitation-only events are subject to different rules than those that apply to ticketed events.
- ❖ If you attend an invitation-only event, the value of the invitation is the pro rata cost of the following:
  - ✓ food, beverages, and related catering services;
  - ✓ feature entertainment (not including music provided for background ambiance);
  - ✓ any other items available to all guests attending the event.
- ❖ “Pro rata share” means the cost of all food, beverages, catering services, feature entertainment, and specific items provided to all attendees, divided by the number of acceptances or the number of attendees. For example, if the event is attended by 100 persons, the pro rata share of each person’s admission will be one percent of the costs identified above. It is the number of individuals who actually accept the invitation or attend the event, not the number invited, that determines the value of the gift received by the official.
- ❖ Note that costs of decorations and facility rental fees are not included in the reportable value of the admission.

- ❖ Drop-in Exception: if you attend an invitation-only event without staying for the meal or feature entertainment and consume only “minimal appetizers and drinks,” then the value of any gift you receive is the fair market value of any tangible items you received other than food and drinks.
- ❖ In addition to the rules stated above, if you receive something at the event that is not provided to all the other attendees (e.g., green fees provided at an event where not everyone is golfing), that benefit is a gift to you valued at its fair market value.
- ❖ The above valuation rules apply to the official and one guest of the official.
- ❖ When a City Official gives a speech at an invitation-only event, he or she may be providing consideration that is equal to or greater than the value of an invitation to the event. In such a case, the official’s admission to the event will be characterized as “income” instead of a “gift.”
  - ✓ When an official’s admission is characterized as “income,” he or she is not required to report it as a “gift” on his or her Form 700 or on the City’s Form 802. Note, however, that \$500 or more in “income” from a reportable source must be disclosed on the official’s Form 700.
  - ✓ In order for an official’s admission to an event to be considered “income” rather than a “gift,” the service provided must be substantive. Merely welcoming attendees or introducing speakers does not constitute “giving a speech” for purposes of this rule.
  - ✓ When the value of an invitation is greater than the value of the consideration provided by a City Official, the official has received a “gift” valued under the rules for invitation-only events, minus the value of the consideration provided by the official.
- ❖ If the invitation-only event is a political or nonprofit fundraiser, refer to the rules for those types of events, which are discussed below.

### **FUNDRAISERS – 501(C)(3) ORGANIZATIONS**

- ❖ Tickets and invitations provided by an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code for that organization’s fundraising event are not “gifts.” Note, however, the following restrictions:
  - ✓ The tickets must be directly provided to the official by the 501(c)(3) organization hosting the fundraiser. Tickets or invitations to the event provided by anyone else will not be entitled to the exemption; instead, they will be valued according to the rules for other types of non-profit fundraising events, as discussed in the next section.
  - ✓ The exemption applies to only two tickets or invitations per event per official. Thus, an official who accepts three tickets to a 501(c)(3) fundraiser from the non-profit entity will obtain an exemption only for the first two tickets. The third ticket will be valued according to the rules for other types of non-profit fundraising events, as discussed in the next section.
- ❖ This exemption does not mean that all tickets or invitations from a 501(c)(3) organization are exempt. The exemption will not apply to an event held by a 501(c)(3) organization where no fundraising takes place, nor will it apply to tickets or invitations from the organization to another entity’s fundraising event.

## **FUNDRAISERS – NONPROFIT ORGANIZATIONS (other than a 501(c)(3) organization)**

- ❖ If you receive tickets or invitations to a fundraising event for a nonprofit organization other than a 501(c)(3) nonprofit organization, value the ticket as follows:
  - ✓ If the ticket clearly states that a portion of the ticket price is a donation to the organization, or the organization has provided information indicating the portion of the admission price that constitutes the donation, then the value of the gift is the non-donation portion of the admission.
  - ✓ If the ticket or organization does not indicate the non-donation portion of the admission, then the value of the admission is the pro-rata share of the cost of the food, beverages, related catering services, feature entertainment, and any other item provided to the official that is available to other guests attending the event. Any other benefits provided to the City Official at the event are valued at fair market value.
- ❖ These valuation rules will apply even if the source of the tickets is not the host of the event.
- ❖ Keep in mind, however, that the above rules do not necessarily apply to all tickets or invitations from a nonprofit organization; these rules do not apply to an event held by a nonprofit organization where no fundraising takes place.

## **POLITICAL FUNDRAISERS**

- ❖ Tickets and invitations provided by a candidate or political committee for a fundraising event for that candidate or committee is not a “gift.”
- ❖ The ticket must be provided to the official by the candidate or committee hosting the fundraiser. A ticket to the event provided by anyone else will not be entitled to the exemption; such tickets are instead valued in accordance with the rules for non-profit fundraisers, as discussed in the previous section.
- ❖ The exemption applies to only two tickets per event per official. Thus, an official who accepts three tickets to a political fundraiser from a candidate or committee will obtain an exemption for the first two tickets only. Additional tickets are valued in accordance with the rules for nonprofit fundraisers, as discussed in the previous section.
- ❖ An official may pay down the value of a non-exempt ticket from a candidate or committee by making a campaign contribution, within 30 calendar days of the event, to the candidate or committee. Note that making a campaign contribution will not reduce the value of a ticket to a political fundraiser that the official receives from an entity other than the candidate or committee holding the fundraiser. The value of that ticket may be reduced only by making a payment, within 30 calendar days of the event, to the entity that provided the ticket.

## **PERFORMING A CEREMONIAL ROLE**

- ❖ When a City Official performs a ceremonial role at an event, the official may attend the event without his or her admission to the event being considered a gift. Attendance means gaining access to the event, but does not include receiving tangible benefits (such as food and beverages) associated with the event.
- ❖ Examples of a “ceremonial role” include throwing out the first pitch at a baseball game; cutting a ribbon at an opening; and presenting or receiving a certificate, proclamation, award,

or other item, such as a key to the City. Thus, a City Official throwing out the first pitch at a Padres game may accept a ticket to the game, and stay to watch the game, without the ticket being a gift from the Padres organization.

- ❖ For the ceremonial role exception to apply, the City Official must perform an official or ceremonial function as a representative of the City of San Diego, and must do so by invitation of the event's sponsor or organizer.
- ❖ The ceremonial role exemption does not extend to food and beverages consumed by a City Official. If an official accepts such items without providing equal or greater consideration, those items will be considered a gift based on their pro rata cost.
- ❖ Under this exemption, when a City Official receives free admission for performing a ceremonial function at a ticketed event, that admission must be reported on a Form 802 submitted to the City Clerk's Office (which will post it on the City's website and forward it to the Fair Political Practices Commission for posting on its website). Any food, beverages, etc. provided to the official at the event are gifts subject to disclosure on the official's Form 700.
- ❖ When a City Official performs a ceremonial role at an invitation-only event, the official's attendance is not reportable on a Form 700 or Form 802. Note, however, that the pro rata cost of any meal provided to the official at the event (plus the value of any specific item presented to the official) is a gift subject to disclosure on the official's Form 700.
- ❖ The ceremonial role exception applies to the City Official performing the ceremonial role and one guest. Additional tickets or invitations received by the official and/or distributed at the discretion of the official are considered gifts to the official and subject to the general rules applicable to ticketed or invitation-only events, respectively.
- ❖ A City Official "staffing" an event to assist another City Official perform a ceremonial role is not receiving a gift by accepting admission to the event. As with the official performing the ceremonial role, however, any food or beverages provided to the "staffer" at the event is a gift and subject to disclosure on a Form 700.

## **TICKETS AND INVITATIONS TO FAMILY MEMBERS**

- ❖ Tickets and invitations given to members of your immediate family will not be treated as gifts to you if there is an established working, social, or similar relationship between the donor and the family member and there is no evidence to suggest that the donor intended to influence you regarding a municipal decision.
- ❖ Evidence suggesting that the donor intended to influence you exists if:
  - ✓ the donor is a lobbyist, a lobbying firm, or an organization lobbyist;
  - ✓ the donor is involved in a municipal decision in which it is reasonably foreseeable that you will participate or did participate within the past twelve months; or,
  - ✓ the donor engages in a business that regularly seeks City contracts or comes before the City for the purpose of receiving a license, permit, or other entitlements, and your role as a City Official involves participating in such decisions.

## SEMINARS, CONFERENCES, AND MEETINGS

- ❖ The general rules for seminars, conferences, meetings, and similar events are described in the following scenarios:
  - ✓ If an official is attending a seminar or conference related to his or her City job duties, then the official's admission to the event is exempt from the gift rules regardless of who pays for the admission. Note, however, that food and beverages provided to the official (and paid for by an entity other than the City of San Diego) at the seminar or conference is a gift and subject to disclosure on a Form 700.
  - ✓ An official who is invited to attend a local organization's monthly meeting and provided with a sandwich and soda is receiving a potentially reportable gift with a value equal to the cost of the sandwich and soda.
  - ✓ Notwithstanding the above two bullets, if an official gives a speech at a meeting or conference, serves on a panel at a seminar, or provides a similar substantive service, his or her admission and any accompanying food and beverages will not be considered a gift or income.
- ❖ Rules regarding travel expenses (transportation, lodging, and meals) are outside the scope of this fact sheet. Please contact the Ethics Commission for assistance with regard to offers to pay for expenses related to your out-of-town travel to conferences and similar functions.

## TICKETS AND INVITATIONS FROM LOBBYISTS

- ❖ Under the City's Lobbying Ordinance, lobbying firms and organization lobbyists and their lobbyists are prohibiting from giving "City Officials" gifts with a value of more than \$10 in a calendar month. This prohibition applies to tickets and invitations to most events.
- ❖ City Officials should take care to avoid accepting tickets and invitations that would cause a lobbyist to violate the law.
- ❖ The Lobbying Ordinance contains an exemption for tickets to events held for nonprofit entities. Note that this exemption applies only to lobbyists; it does not apply to City Officials. Thus, a ticket that has no reportable value for a lobbying entity may still be reportable by a City Official. For example:
  - ✓ A 501(c)(6) nonprofit organization is registered as an organization lobbyist. It holds a fundraising event and provides a ticket to a Councilmember. The non-donation portion of the ticket is \$75.
  - ✓ Because of the exemption, the ticket is not a "gift" subject to the Lobbying Ordinance's \$10 limit, and the organization lobbyist need not report it on a quarterly disclosure report. The City Official, however, will have to report the ticket on his or her Form 700 because it is a "gift" under the Ethics Ordinance and the non-donation portion exceeds the \$50 reporting threshold.

For additional information regarding the rules contained in this Fact Sheet, please contact the Ethics Commission at (619) 533-3476.