



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 91-15

### Application of the Gift Law to Tickets for Charitable Events

The Ethics Commission frequently receives inquiries regarding the value of gifts received by public officials when a lobbyist gives the individual a ticket to attend a charitable event. Marianne D. Smith, Ethics Commission Staff Attorney, has asked the Commission to issue an advisory opinion on this issue in order to formalize the Commission's approved policy on valuation of these types of gifts.

Assume the following set of facts:

A charity sponsors a golf tournament as a fundraising vehicle. The event is held at a private country club where normally nonmembers are allowed to play only as a member's guest. The lobbyist donates \$1,000 to the charity and in return receives four spots for participants in the tournament, four spots for a banquet following the tournament, four lunches on the course, gift items to participants, a hole sponsorship, and an ad in the event program.

Additional funds are raised by accepting donations of \$175 from individuals who wish to participate in the tournament. In return, the individual receives a spot in the tournament, lunch on the course, various items such as a shirt, golf umbrella, or golf balls and one banquet seat. The country club charges the charity for the following costs per participant: \$40 for greens fees, \$30 for the banquet, \$5 for the lunch, and \$15 for the gift items for a total cost of \$90 per person (it is assumed that these charges reflect the cost of holding the event at the private club). The remaining \$85 dollars is, therefore, the amount classified by the charity as a charitable donation from an individual entrant.

Pursuant to Regulations of Connecticut State Agencies §1-92-48(c), in determining the value of an expenditure, the value equals the cost to the registrant. If this method is not applicable, the value equals the fair market value of the item

as determined by its replacement cost. Id. In this case, the lobbyist's \$1000 expenditure includes several nongift components and does not reflect the true value of the benefits conferred upon participants. Therefore, pursuant to Commission regulations, the fair market value method should be used. In this instance, the value of the benefits received by a participant equals the amount the charity has been charged by the country club for each individual's participation, i.e. \$90. Therefore, if the lobbyist invites a public official or state employee to participate in the tournament by taking one of its four spots, this dollar amount should be utilized to establish the value of any gifts or food or beverage for purposes of the Codes.

As a matter of public policy, the Commission does not want to impede charitable contributions. Therefore, for this limited circumstance, the charitable donation portion of the "gift" can be separated from the other items in determining the value given to the public official or state employee. In this case, the lobbyist has retained its right to take the charitable donation and has only bestowed upon the recipient the other items one is entitled to receive by virtue of purchasing a ticket. This is consistent with Internal Revenue Service (IRS) rulings which deal with such fundraising practices. The IRS allows a charitable gift only to the extent that it is shown to exceed the fair market value of any consideration received in the form of privileges or other benefits. See I.R.C. §170 (1986), Rev. Rul. 67-246, 1967-2 C.B. 104. In other words, the entry fee into the tournament has two components: 1.) the "privileges and other benefits" and 2.) the charitable gift which qualifies as a donation for tax purposes. The lobbyist, in this case, is only giving to the public official the "privileges and other benefits" component and retaining the right to take the tax deduction.

Food and beverage or both, costing less than fifty dollars per person and consumed on a single occasion at which the person paying, directly or indirectly, or his representative, is in attendance is not considered a gift, for purposes of the Code. Conn. Gen. Stat. §1-91(g). Therefore, the items received, i.e. the "privileges and other benefits", must be separated into food and beverage costs and other gift costs. Of the items provided in the example given above, the lunch of \$5 and the banquet cost of \$30, or \$35 in total, can be allocated to the food and beverage portion, if the lobbyist or a representative is in attendance. The gift total is, therefore, \$55, or \$5 over the annual gift limit (an amount that must be reimbursed by any public official or state employee participant).

Frequently, the tournament sponsor will award prizes. Assuming this occurs in the scenario under review, the prizes should be awarded on the basis of the skill of the golfer and not in any way designed to ensure that a public official or state employee will receive a prize. In a previous Ethics Commission case, it was determined that the cost of purchasing the prizes for the tournament had to be included in calculating the gift component to the public official. See, MCI Communications, Inc., Ethics Commission Docket No. 89-7(1989). The method used was to pro rate the cost of the prizes among all the tournament participants. It was determined that the public official was given only the right to compete for any available prizes. Alternatively, if any public official agreed, in advance, not to compete for a prize, then the pro rated amount would not have to be factored into his or her gift.

In summary, the lobbyist has purchased a "ticket" for both the right to participate in the event and to make a charitable donation. Therefore, if the lobbyist gives this ticket to a public official and retains the right to take the charitable deduction, the Code's expenditure limits and reporting requirements apply only to the value of any gifts and/or food or beverage provided to a ticketholder. The charity does not have any Ethics Code responsibilities, unless the charity is also a registered lobbyist and allows a public official or member of his staff or immediate family, or state employee to participate at no cost. This is the Ethics Commission's policy for all charitable events, as long as the charitable contribution to the group sponsoring the fundraiser would qualify for a tax deduction pursuant to the IRS Code.

By order of the Commission,

*Rabbi Michael Menitoff*

---

Rabbi Michael Menitoff  
Chairperson

Dated 5-6-91