



Office of the Ethics Commissioner

Gifts and Non-Commercial Air Travel

2017

Introduction

The basic rule regarding gifts, which is articulated in section 7(1) of the Conflicts of Interest Act, is that Members are prohibited from accepting a fee, gift, or other benefit connected directly or indirectly with the performance of their duties as an elected official, regardless of the dollar value. Gifts from family and friends are not subject to section 7.

A Member should ask, “Am I getting this gift because I am a Member of the Legislative Assembly?” If the answer is yes, then the gift may not be accepted. However, this general rule has exceptions.

Gifts that are offered, aside from gifts from family and friends, or are otherwise exempted, may only be accepted if they are an incident of **protocol** or **social obligation**. There are also value restrictions.

General restrictions

Tangible gifts (for example, non-monetary gifts or benefits) may be accepted if the value is \$200 or less. Any gift above \$200 must receive approval from the Ethics Commissioner. In some cases, such as after a speech is given, a Member may be put in a position where the Member is not able to refuse the gift or does not know its value when accepting it. The Member may be able to return the gift privately later or may discuss with the Office of the Ethics Commissioner how to deal with the gift.

If the gift amount exceeds \$200, approval by the Ethics Commissioner is required. The Commissioner must be satisfied that there is no reasonable possibility that retention of the gift would create a conflict between a private interest and the public duty of the Member.

Members may accept tickets and invitations to events if the total value of the tickets from the same source in a reporting year is less than \$400. The Member needs to obtain the prior approval of the Ethics Commissioner if the tickets are valued at \$400 or more. Acceptance of a ticket of \$400 or more will be noted in the Member’s public disclosure statement.

When determining the value of the gift, the Member should ascertain the fair market value, or what any other person would pay for a similar ticket. Tickets to dinners should be valued at face value rather than the cost of the food.

If a gift is offered to a spouse, adult interdependent partner or minor child, the same considerations apply as if the gift were given to the Member directly. Also, if a gift includes more than one ticket to an event, the total cost of all tickets received by the Member and his or her family are to be included in valuing the gift. For example, two tickets at \$100 each is \$200 and must be reported as such.

Gifts that are an incident of protocol or social obligation – nominal value

7(3) Subsection (1) does not apply to a fee, gift or other benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child as an incident of protocol or of the social obligations that normally accompany the Member's office

- (a) if the value of the fee, non-monetary gift or other non-monetary benefit given to the Member, the Member's spouse or adult interdependent partner or minor children does not exceed \$200,

T-shirts, coffee mugs, books, flowers, chocolates, light refreshments etc, are gifts that are normally under \$100 and may be accepted. However, if the value of a gift is more than \$100, Members need to list it on the Member's gift tracking sheet.

Sometimes various delegations and communities offer token gifts to Members for attending an event, giving a short speech, or handing out a prize or award. In these cases, the gift is being offered as an incident of protocol and may be accepted.

Gifts that are an incident of protocol or social obligation – invitations to concerts, galas, sporting events, local rodeos and exhibitions, etc.

7 (3) Subsection (1) does not apply to a fee, gift or other benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child as an incident of protocol or of the social obligations that normally accompany the Member's office

- (b) in the case of tickets and invitations to events, if the total value of all tickets and invitations to events accepted by the Member and the Member's spouse or adult interdependent partner and minor children from the same source in any calendar year does not exceed \$400;

Under the Act, a Member may accept invitations to events such as concerts, galas, sporting events, and local rodeos and exhibitions if the donor is going to attend with the Member and offer the Member hospitality. A Member should carefully think about accepting such tickets as the media and public perception around the Member's attendance at these events as a guest of a corporation or lobbyist can be damaging. If the donor is not attending with the Member and is simply offering the Member free tickets to do with as the Member pleases, the Member should check with the Office of the Ethics Commissioner beforehand as the Member likely will not be able to accept the tickets. As tickets to these events are usually over \$100 they would need to be listed on the Member's gift tracking sheet. If the value of the ticket(s) exceeds \$400 prior approval to accept the invitation is also required and the tickets will appear on the Member's public disclosure statement.

There is no difficulty accepting entrance passes or luncheon or breakfast tickets from Edmonton's K-Days, Ponoka Stampede, Calgary Stampede or other exhibition boards that are offered to Members each year. However, tickets to infield boxes and invite-only events need to be pre-approved by the Ethics Commissioner, and need to be recorded on the Member's gift tracking sheet along with the market value of the tickets.

Alberta's various communities host annual parades, small community BBQs, community roasts, hot dog days, and fairs. It is common practice by many municipalities that complimentary tickets are given to local, and even nearby, Members. Members are encouraged to attend and do not need to record these attendances on the Member's gift tracking sheet.

Gifts that are an incident of protocol or social obligation– invitations to conferences

7 (3) Subsection (1) does not apply to a fee, gift or other benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child as an incident of protocol or of the social obligations that normally accompany the Member's office

- (c) in the case of the invitation of a Member to a conference or meeting in respect of which the Member accepts a waiver of the attendance fee and the payment or reimbursement of reasonable travel expenses incurred for the Member's attendance at the conference or meeting, if the total value of attendance fees waived and travel expenses paid or reimbursed by the same source in any calendar year does not exceed \$400;

Members may accept invitations to conferences or other training events and sessions. Such invitations, unbeknownst to some Members, may come with an automatic waiver of registration fees and the organizers may list the Member's name in their list of attendees. The offer of the free registration is acceptable provided the registration fee and any travel and accommodation expenses offered does not exceed \$400. The Member must list the conference and any travel or accommodation expenses that were gifted to the Member on the Member's gift tracking sheet. If the value of what is being offered is \$400 or more, then prior approval from the Ethics Commissioner is required.

If the Member is only making opening or closing remarks and partaking in a breakfast or lunch, the Member does not need to record the event on the Member's gift tracking sheet.

If the Member is attending a conference on government business, the government should pay for travel and accommodation.

Exceptions to the rule, gifts that do not fall within the above

There will always be situations or gifts that do not fall neatly within one of the previously mentioned categories. In these cases, the Member should contact the Office of the Ethics Commissioner and obtain the Ethics Commissioner's advice. The Member should be prepared to provide the following information:

- a) Who is offering the gift and do they represent anyone?
- b) What is the fair market value of the gift being offered?
- c) Has there been any interaction with the donor previously, if so, how?
- d) Is there any reason someone may consider that the Member accepting the gift to be wrong?
- e) Has the Member accepted any other gifts from the donor in the last reporting year?
- f) Is the donor a lobbyist, and are they lobbying the Member, or any board, committee, agency or panel on which the Member sits or has influence over?

Gifts from charities, other Canadian governments or political parties

7(2) Subsection (1) does not apply to a non-monetary gift or other non-monetary benefit that is accepted by the Member or the Member's spouse or adult interdependent partner or minor child from the Member's political party or constituency association, a charitable organization or a Canadian government, whether federal, provincial, territorial or municipal.

Regardless of value, the Member may accept gifts from their constituency association, their political party, any charitable organization (as defined by Canada Revenue Agency (CRA): <http://www.cra-arc.gc.ca/chrts-gvng/lstngs/menu-eng.html>), or any level of government (eg. parking passes offered by City of Edmonton). Most of the arts organizations are CRA registered charities.

In the above cases, it is not necessary to check with the Ethics Commissioner.

Just a caution, a Member may receive tickets to an event put on by a charity but the tickets may come from, or the seats may be paid for by, a corporation or an individual. In these cases, the tickets are not coming from a charity and under the Act are reportable gifts if they are valued at \$100 or more. Approval must be received from the Ethics Commissioner before accepting the tickets if the value of the ticket(s) are \$400 or more.

Prizes

A Member may purchase a raffle ticket from their own personal funds and win a prize at an event. The Member may keep the prize as it is not connected to their official duties. No disclosure is required. If the Member wins a door prize or similar draw where the Member has not bought a ticket to the event the Member should decline it.

Donating gifts

Members may wish to donate a gift that was received to a local community association or charity. If a Member donates a gift, an income tax receipt must be declined.

Gift tracking sheet

Members must submit a gift tracking sheet each year with the Members' annual financial disclosure. All gifts received greater than \$100, except from family and friends and those which are exempt, must be listed on the form.

Even if a gift is donated or re-gifted by the Member, the rules relating to reporting still apply as the Member is the first person receiving the gift.

Perceptions

In considering accepting an allowable gift, a Member should also consider if the donor:

- has official dealings with the Member, in any professional capacity, or the government;
- has potential future dealings with the government;
- if the donor receives substantial government funding;
- is a registered lobbyist.

If the answer is yes to any of these points, a Member may wish to decline the offer. Acceptance of any allowable gift, regardless of value, should be reviewed carefully to consider whether the gift is being offered by someone whose interests could be affected by a decision the Member could be called upon to make. Members should also consider whether accepting a gift from a particular donor would, or would appear, to create an actual, or perceived, obligation on the Member.

Discovering after acceptance that a gift is not allowable

If a Member has already accepted a gift and later discovered acceptance was not allowed, the Member should contact the Ethics Commissioner for direction. Resolution may include:

- 1) Returning the gift to the donor; or
- 2) If the hospitality has been enjoyed, repaying the value of the gift to the donor or donating the value of the gift or more to a CRA registered charity.

Copies of related correspondence denoting the return of the gift must be provided to the Ethics Commissioner.

Travel on non-commercial aircraft

Unless the flight being offered is required for the performance of the Member's office, there are exceptional circumstances, or the Member receives prior approval of the Ethics Commissioner, Members may not accept travel on a non-commercial flight. The discretion as to whether such a flight meets those conditions rests with the Ethics Commissioner. For the Member's protection, the Member should always seek advance approval before accepting a flight. If the Ethics Commissioner determines that the flight does not meet the criteria the Member may be required to reimburse the air service company for the flight costs.

All non-commercial flights will be reported on the Member's annual public disclosure statement.

If a Member is considering accepting a non-commercial flight, the non-commercial air travel form must be completed and submitted to the Office of the Ethics Commissioner for the Ethics Commissioner's consideration and approval at least three days prior to the flight.

Binding advice and recommendations

Based on the facts communicated to the Ethics Commissioner, if a Member complies with the recommendations contained in the Commissioner's advice, no proceedings or prosecution shall be taken against the Member.