INFORMATION PAPER

SUBJECT: Gifts Intended Solely for Presentation (5 C.F.R. 2635.203(b)(2))

Myth: There is a widely-held belief that Federal personnel may accept gifts which normally they could not accept (since the gifts were offered because of the individual's official position or were offered by a prohibited source), as long as the gifts were personalized in some way, such as by inscribing a personal note inside the cover of a book, attaching a brass plate to the gift, or etching the recipient's name on the gift. The myth was epitomized recently when an executive assistant to an Assistant Secretary advised that when the donor inscribed the book, which had a substantial retail value, he "drove the value of the book to zero," therefore permitting the Assistant Secretary to accept the book as a gift.

Reality: Section 2635.203(b)(2) of the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R.Part 2635) excludes from the definition of "gift:"

> *Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;*

Discussion: The keys to this exclusion are "little intrinsic value" and "intended solely for presentation." The specific items identified in the regulation, i.e., plaques, certificates, and trophies, are items that have no utilitarian value and are usually given solely for presentation. The preamble for the proposed rules (Federal Register, Vol 56, No 141, page 33781 (July 23, 1991) notes:

> *A plaque or trophy which is itself an art object or utilitarian item, such as a clock, or which incorporates materials of significant value, would not come within this exclusion.*

The Office of Government Ethics, in the preamble to the final rule (Federal Register, Vol 57, No 153, page 35014 (August 7, 1992)) specifically rejected agency attempts to add "mementos" to the list of approved items.

This guidance and regulatory gloss make clear that items of value, such as crystal, glassware, items containing precious metals, works of art, swords, books, pistols, and pottery do not qualify for this exclusion, even if they are inscribed, etched, embossed, engraved, or otherwise adorned with the individual's name.

This does not mean, however, that utilitarian items may not be accepted as presentation items. Authority to accept would have to flow from another exception to the gift rules such as the $20 exception at 5 C.F.R. 2635.204(a). In such cases, the fact that the item is inscribed or otherwise adorned with the individual's name may have the effect to reduce the retail value of the item to $20 or less. Such a value may be ascertained by appraisal or by the "garage sale or ebay test"–how much would the item sell for, if, in its present condition, it were offered on ebay or in a garage sale?

For example, a new book that may be purchased on the internet for $25, may be worth less than $20 once it is inscribed with someone else's name. (Conversely, if the inscription is from the author or a famous or historical figure, the value of the book may be increased.) On the other hand, the value of a glossy picture book of photos from the cover of Life Magazine, which retails for $75, will not be reduced to $20 or less by inscribing a greeting on its first page.

Bottom Line: Please drive a stake through the heart of this ethical myth. Remind employees that the exception for presentation gifts applies only to presentation gifts such as plaques, certificates, and trophies. Mementos, utilitarian items, and gifts of intrinsic value are acceptable only if they qualify under another exception. Finally, adorning a person's name on an item may diminish its value, but that value must be realistic and $20 or less.

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