



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Elizabeth Regalado
Executive Director
Domestic Violence Oversight Board (DVOB)

FROM: Martha D. Perez
Temporary Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2024-108; Section 2-11.1(e)-Gifts

DATE: June 13, 2024

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the valuation of reportable gifts under Section 2-11.1(e), Miami-Dade Conflict of Interest and Code of Ethics Ordinance (County Ethics Code).

Facts

You are the Executive Director of the Domestic Violence Oversight Board (DVOB). You state that you and the chair of the Board received invitations to a luncheon hosted by The Women's Fund Miami-Dade- a local advocacy nonprofit organization addressing women's issues. The cost of the luncheon ticket was \$175.00 per person.¹ Women's Fund advised that the non-tax-deductible portion of the cost of the ticket was \$46.00. You would like to know which valuation of the gift applies to the gift disclosure requirements for reporting individuals under state and local laws.

¹ The tickets received by DVOB staff/member were donated by The Women's Fund which hosted the "Power of the Purse" event on April 26, 2024, at the Hilton Miami Downtown, 1601 Biscayne Blvd, Miami, FL 33132. The tickets, at \$175.00 each, included a 3-course lunch; a silent auction; "top-notch" networking; and inspirational speakers. Powerofthepurse.org

Issue

What cost-analysis method applies to recipients in the determination of the value of a gift from a non-profit organization pursuant to Section 2-11.1(e), County Ethics Code.

Discussion

As stated, reporting individuals are required to disclose the receipt of allowable gifts from non-prohibited donors if they exceeded \$100 in value. This disclosure should be made on the state's CE Form 9, Quarterly Gift Disclosure, by the last day of the calendar quarter that follows the calendar quarter in which the gifts were received.

In response to your inquiry, the Miami-Dade Commission on Ethics and Public Trust adopts the opinions of the Florida Ethics Commission regarding valuation of reportable gifts (CEO 19-17) and the definitions set forth in the Florida Statutes. Regarding valuation of reportable gifts, Section 112.3148(7), Florida Statutes, determines what valuation criteria governs specific circumstances or specific types of gifts. This section provides in general that, the value of a gift provided to a reporting individual or procurement employee shall be determined using actual cost to the donor, less taxes and gratuities, except as otherwise provided in this subsection, and, with respect to personal services provided by the donor, the reasonable and customary charge regularly charged for such service in the community in which the service is provided shall be used. If additional expenses are required as a condition precedent to eligibility of the donor to purchase or provide a gift and such expenses are primarily for the benefit of the donor or are of a charitable nature, such expenses shall not be included in determining the value of the gift. *See* Section 112.3148(7)(a), Fla. Stat.

In other words, the aforementioned subsection (a) contains a general principle that gifts are to be valued according to the "actual cost to the donor." The remaining provisions in Section 112.3148(7) then provide **specific valuation rules** governing specific circumstances or specific types of gifts. *See* CEO 95-36 (concluding that where a specific statute is applicable in determining the value of a gift, that statute will control over the more general statute and, rather than a gift being valued based on the cost to the donor, the value will more closely approximate fair market value").

Consequently, we must look at the remaining subsections of this statute to determine which, if any, will apply to the computation of the value of this particular gift²:

Subsection(h) provides that entrance fees, admission fees, or *tickets* shall be valued on the **face value of the ticket** or fee, or on a daily or per event basis, whichever is greater.

² If none of the other subsections apply, then the value of a gift would be the actual cost to the donor, less taxes.

Further, subsection (k) states that the value of a gift of an admission ticket shall not include that portion of the cost which represents a charitable contribution if the gift is provided by the charitable organization.³

Opinion

Consequently, the value of the luncheon event ticket to the recipient is \$175.00- the face value of the ticket.

Please note, this opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. The State Code of Ethics shall apply to officers, employees, and consultants of the agency, and this section shall be enforced by the Commission on Ethics as part of the State Code of Ethics. *See* §348.0305(8), Fla. Stat. For additional information on state law or an opinion regarding Florida ethics law, you may contact the Florida Ethics Commission, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Commission on Ethics or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.

³ In other words, only when the donor of the gift is a charitable organization may the recipient deduct that portion of the gift that represents a charitable contribution. *See* CEO 19-17. For example, the face value of the donated event ticket is \$175. If the \$175 included the cost of the event AND a charitable contribution to the non-profit sponsor; and, if the recipient reimbursed the non-profit in the amount of the charitable contribution included in the \$175 cost, then the value of the gift would be computed as follows: Face Value **minus** Recipient's Charitable Contribution **equals** Value of Gift for reportable purposes. *See* INQ 18-11, INQ 16-227; INQ 15-72

However, the requestor has indicated that the recipients of the subject event tickets/gifts did not reimburse The Women's Fund in the amount of the charitable donation included in the cost of the tickets.