



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

June 2, 2010

MEMORANDUM

SUBJECT: Gifts Disclosure Statements Due June 30, 2010

This is a reminder that gifts disclosure statements for the period covering June 1, 2009, to June 1, 2010, must be filed with the Hawaii State Ethics Commission by June 30, 2010. The gifts disclosure law, Hawaii Revised Statutes (“HRS”) section 84-11.5, requires all state legislators, state employees, and state board and commission members who received gifts during this period to file a gifts disclosure statement with the Hawaii State Ethics Commission if the following conditions are met:

- (1) The state official or employee, or a spouse or dependent child of the official or employee, received from one source (a) any gift valued in excess of \$200, or (b) any gifts whose combined value is in excess of \$200, **and**
- (2) The source of the gift or gifts has interests that may be affected by official action that the state official or employee takes in his or her state capacity, **and**
- (3) The gift is not an exempted gift under section 84-11.5, HRS. See “Exempted gifts,” below.

State officials and employees who received gifts that meet all three of the above-listed conditions must file a gifts disclosure statement with the Hawaii State Ethics Commission by June 30, 2010. (Justices and judges are exempt from this requirement, since they are not subject to the jurisdiction of the Hawaii State Ethics Commission.)

Examples of reportable gifts. Gifts that are reportable include but are not limited to gifts in the form of goods, services, hospitality, and travel.

IMPORTANT: Not all gifts are permitted to be accepted under the State Ethics Code, HRS Chapter 84. Compliance with the gifts disclosure law does not automatically allow state officials or employees to accept all gifts that may be offered to them. The State

Ethics Code prohibits state officials and employees from accepting any gift under circumstances in which it can reasonably be inferred that the gift is intended to influence or reward official action. Even a small gift may be prohibited if it is reasonable to infer that it is intended to influence or reward an employee in the performance of the employee's official duties. Nominal gifts such as a moderately priced box of candy or cookies generally do not pose a problem under the State Ethics Code. Any gift exceeding this in value should be checked with the Hawaii State Ethics Commission before acceptance.

Exempted gifts. The following gifts are exempted by law from the disclosure requirements and do not have to be reported on a gifts disclosure statement:

- (1) Gifts received by will or intestate succession;
- (2) Gifts received by distribution of any inter vivos or testamentary trust established by a spouse or ancestor;
- (3) Gifts from a spouse, fiancé or fiancée, any relative within four degrees of consanguinity, or the spouse, fiancé or fiancée of such a relative. A gift from any such relative is a reportable gift if the person is acting as an agent or intermediary for someone who is not covered by this paragraph. For purposes of this exemption, relatives within four degrees of consanguinity include the following: parents, grandparents, and great grandparents; children, grandchildren, and great-grandchildren; and brothers/sisters, uncles/aunts, great uncles/aunts, nephews/nieces, grand nephews/nieces, and first cousins;
- (4) Political campaign contributions that comply with state law;
- (5) Anything available to the public generally without regard to the official status of the recipient;
- (6) Gifts that, within thirty days after receipt, are returned to the giver or delivered to a public body or to a bona fide educational or charitable organization without the donation being claimed as a charitable contribution for tax purposes; and
- (7) Exchanges of approximately equal value on holidays, birthdays, or special occasions.

Importance of keeping gifts records. To ensure accurate gift reporting as required by the law, the Hawaii State Ethics Commission suggests that all state officials and employees maintain records of gifts that they receive and that must be reported. This is especially important for gifts which, individually, may not exceed \$200 in value, but which may exceed \$200 when combined with other gifts from the same source.

Public records. Gifts disclosure statements that are filed with the Hawaii State Ethics Commission are public records and are available for public inspection.

Penalties for failure to file. Failure to disclose a reportable gift by filing a gifts disclosure statement as required by law constitutes a violation of the State Ethics Code, HRS Chapter 84. State officials and employees who violate the State Ethics Code are subject to disciplinary action, including reprimand, probation, demotion, suspension, or discharge from state office. In addition, the Hawaii State Ethics Commission may issue a public finding of a violation and the State, by the Attorney General, may recover any gift received in violation of the State Ethics Code. The Hawaii State Ethics Commission may also impose fines of up to \$500 for each violation of any provision of the State Ethics Code.

Disclosure statements must only be filed if reportable gifts are received. Gifts disclosure statements must only be filed by state officials and employees who received reportable gifts. Officials and employees who do not have any gifts to report are not required to submit gifts disclosure statements to the Commission.

To request gifts disclosure forms and additional information. A gifts disclosure packet containing gifts disclosure forms and instructions, a sample of a completed Gifts Disclosure Statement, "Questions and Answers on the Gifts Disclosure Law," and additional information about gifts reporting, is available from the Hawaii State Ethics Commission. To request a gifts disclosure packet, contact the Commission at (808) 587-0460, or obtain this information directly from the Commission's website at www.hawaii.gov/ethics.

To file a gifts disclosure statement. Gifts disclosure statements must be received (not just postmarked) by the Hawaii State Ethics Commission by June 30, 2010. Disclosure statements can be delivered or mailed to the Commission's office at 1001 Bishop Street, Suite 970, Honolulu, Hawaii 96813. Disclosure statements can also be mailed to the Commission at P.O. Box 616, Honolulu, Hawaii 96809.

Advice regarding gifts and other ethics questions. The Hawaii State Ethics Commission provides confidential ethics advice to all state officials and employees. To avoid entanglements with the ethics laws, state officials and employees should contact the Commission for advice before accepting any gift or engaging in any conduct that might raise ethics concerns.

REMEMBER: THE DEADLINE FOR FILING A GIFTS DISCLOSURE STATEMENT WITH THE HAWAII STATE ETHICS COMMISSION IS WEDNESDAY, JUNE 30, 2010!