

A Summary of Ethics Rules for New Employees

Alcohol and Tobacco Tax and Trade Bureau

United States Department of the Treasury

Introduction

This notice includes brief summaries of various ethics issues that may arise during your Federal employment with the Alcohol and Tobacco Tax and Trade Bureau (TTB). These issues include financial and other conflicts of interest, gift acceptance, outside employment while a TTB employee, seeking future employment and other post-employment restrictions, political activity under the Hatch Act, and travel. A common theme throughout the materials below is that all TTB employees must preserve the impartiality of agency decision-making and avoid conflicts of interest or even the appearance of a conflict. By doing so, TTB employees will protect themselves and preserve and protect the integrity of TTB and its mission.

The following summaries are designed to help you anticipate and identify ethical and legal obligations that may arise during and after your employment with TTB. Please note that this notice is an overview and does not purport to cover these issues in their entirety. Therefore, it is always appropriate and highly recommended to consult the Treasury Ethics Handbook for more information and/or contact an agency ethics official in the Office of Chief Counsel for advice.

Financial Conflicts of Interest

TTB employees are subject to restrictions governing financial conflicts of interest pursuant to a criminal statute, 18 U.S.C. § 208. Regulations issued by the Office of Government Ethics (OGE), at Subpart D of the Standards of Ethical Conduct and 5 CFR Part 2640, explain and implement that statute.

Section 208(a) bars an employee from participating personally and substantially in any particular matter in which, to his or her knowledge, the employee, or anyone whose interests are imputed to the employee (primarily immediate family members) has a financial interest, that would be affected directly and predictably by the particular matter, unless a waiver applies. Financial interests arise whenever there is the potential for gain or loss to the employee or other persons whose interests are imputed to the employee, as a result of governmental action on a particular matter. Examples of financial interests include, but are not limited to, ownership of stock, bonds, mutual funds, and real estate, as well as salary, a loan, or a job offer.

When an employee's official duties create a substantial likelihood that he or she may be assigned to a particular matter from which he or she should be disqualified because of a financial conflict of interest, the employee should advise his or her supervisor or other person responsible for his or her assignments of that potential so that conflicts of interest can be avoided consistent with the agency's needs.

Actual or apparent financial conflicts of interest can be resolved only by recusal, termination of the financial interest through divestiture or resignation, an individual or regulatory waiver, or OGE-approved blind trusts. Unless the employee is authorized to participate in a particular

matter by an exemption or waiver, or the interest has been divested, the employee is required to recuse him or herself, i.e. not participate in the relevant matter.

OGE, under 5 CFR Part 2640, has exempted certain financial interests held by Federal employees from the application of 18 U.S.C. § 208. Several of the more common exemptions cover financial interests in diversified mutual funds, diversified employee benefit plans, and publicly traded securities. See the Treasury Ethics Handbook for more on the regulatory exemptions or contact an agency ethics official.

Special rules apply to TTB employees, however. Pursuant to another criminal statute, 26 U.S.C. § 7214(b), TTB employees are prohibited from having certain financial interests in the manufacture of tobacco products or the production of distilled spirits, beer, or other malt beverages. In addition, TTB employees and their immediate family members are prohibited from having certain financial interests in the alcohol, tobacco, firearms, or explosives industries under 5 CFR § 3101.105. Waivers may be available under this regulation (but not the above statute).

If you have any questions regarding financial conflicts, please consult with an ethics official.

Personal Conflicts of Interest

The Standards of Ethical Conduct establish procedures for employees to use when their participation in a matter does not rise to the level of a financial conflict of interest under 18 U.S.C. § 208, but when they have certain other kinds of interests that might trigger concerns about their abilities to act impartially. These concerns most often arise in the context of an employee being asked to work on a matter in which a friend or an employee's relative is or represents a party to the matter or if it would affect the financial interests of a friend or an employee's relative.

The impartiality standard states that an employee cannot participate in particular matters involving specific parties if he or she knows the circumstances would cause a reasonable person with knowledge of the relevant facts to question the employee's impartiality in the matter, unless the employee receives an authorization to participate from an agency ethics official. An employee may seek the assistance of his or her supervisor and/or an agency ethics official for guidance with the impartiality assessment.

Invitations and Gifts

Gifts are defined to include any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value such as an invitation to an event. Gifts include services as well as training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.

Gifts from Non-Federal Sources: As a general rule, Federal employees may not, directly or indirectly, solicit or accept a gift from a person or organization that has or seeks business dealings with TTB (called a "prohibited source" under the regulations); or given because of the employee's official position.

Exceptions to this rule may apply. Gifts of a market value of \$20 or less per occasion and does not exceed a total of \$50 per year from the same non-Federal source may be accepted. Gifts from relatives and long-time friends may also be accepted as long as that person pays for the gift personally and has total discretion over the giving of the gift. In addition, when assigned to speak or participate in a panel discussion on behalf of the agency, an employee may accept the invitation and free attendance at a conference on the days that employee is to appear. Finally, invitations to “widely attended gatherings” (WAGs) may also be accepted upon a written determination from an agency ethics official. See the Treasury Ethics Handbook or contact an agency ethics official for more information on gift acceptance.

Even if an exception applies to an employee’s receipt of a gift, he or she may not accept a gift in return for being influenced in the performance of an official act; solicit or coerce the offering of a gift; accept a gift from the same or different sources on a basis so frequent that it creates a reasonable perception that public office is being used for private gain; or accept a gift in violation of any statute. Relevant statutes include 18 U.S.C. § 201, which forbids the acceptance of bribes or illegal gratuities and 18 U.S.C. § 209, which forbids the acceptance of any augmentation of Federal salary from outside sources.

Please note that it is always proper to decline a gift that is allowed under the exceptions if the acceptance of the gift would appear to undermine your impartiality in handling TTB business.

Foreign Gifts: Gifts from a foreign government are subject to separate requirements under the Foreign Gifts and Decorations Act, 5 U.S.C. § 7342, and generally must meet the definition of minimum value currently set at \$305 or less to be accepted. A TTB gift register form must be completed and submitted to an agency ethics official for a determination as to proper acceptance of a foreign gift. Treasury Directive 61-04 states that employees “are prohibited from requesting, or otherwise encouraging, the tender of a gift or a decoration from a foreign government or from accepting or retaining a gift or decoration when to do so would create an adverse consequence to the United States.”

Gifts between Employees: Generally, the gift rules prohibit an employee from giving, donating to, or soliciting contributions for, a gift to an official superior; or accepting a gift from another employee receiving less pay than him or herself. There are exceptions to this rule, such as when the two employees are not in an official subordinate-superior relationship and there is a personal relationship between the two employees that would justify the gift. There also is an exception for occasional gifts given to an official superior or accepted from a subordinate or other employee receiving less pay, if the gift is not cash or other form of money, and has a market value of \$10 or less per occasion. There is also an exception for special, infrequent events such as marriage or retirement. Finally, employees may solicit voluntary contributions of nominal amounts from fellow employees on an occasional basis for items such as food and refreshments to be shared among employees. It is important to note that a contribution is not voluntary unless it is made in an amount determined by the contributing employee.

Outside Employment or Other Outside Activities

Under the Standards of Ethical Conduct, an employee cannot engage in outside employment or other outside activities that conflict with his or her official duties. Such a conflict exists if the

proposed activity is: (1) prohibited by statute or Treasury regulation; or (2) would require your disqualification under the conflict of interest statute or the impartiality rules from matters so central or critical to the performance of your official duties that your ability to perform those duties would be materially impaired.

An employee must obtain prior written approval before engaging in any outside employment or business activity, with or without compensation, except to the extent that the agency has issued a directive exempting an activity or class of activities from this requirement. If prior written approval is required, it shall not be granted if it is determined that the proposed outside employment or activity is expected to involve conduct prohibited by statute, the Standard of Ethical Conduct, or the Supplemental Standards of Ethical Conduct for Employees of the Department of the Treasury.

All employees are precluded by criminal statutes (18 U.S.C. §§ 203 and 205) from representing others before the Government, with or without compensation, or from sharing in the proceeds of such representational activities. If not inconsistent with the faithful performance of an employee's official duties, there are limited exceptions permitting the uncompensated representation before the Government of: a person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or a non-profit entity if a majority of the entity's members are current Government employees, or their spouses or dependent children.

In the course of engaging in outside employment or other activities, an employee must be aware of, and comply with, applicable restrictions on the use of information gained from Government employment. **Generally, an employee may not use Government equipment, supplies, or time in connection with outside employment or other non-Government activities. With certain limited exceptions, an employee cannot use his or her official title, position, or authority associated with his or her office in performing outside employment or other activities.**

Seeking Future Employment

Federal government employees may seek and negotiate for employment outside the Government so long as they take appropriate steps to protect the integrity of the Government decision-making processes. In most cases, this requirement can be met by disclosure to a supervisor and recusal.

The major statutory restriction affecting all Federal employees with respect to prospective employment in the private sector is that an employee who is negotiating for, or has an arrangement concerning, prospective employment with a person or organization may not participate in any Government matter in which that person or organization has a financial interest. 18 U.S.C. § 208(a). This restriction has been extended by regulation to those employees who are merely seeking employment. 5 CFR § 2635.601 (Standards of Ethical Conduct for Employees of the Executive Branch). An employee may also be subject to other statutes which impose requirements on employment contact or discussions, such as 41 U.S.C. § 423(c), applicable to agency officials involved in certain procurement matters.

Agency ethics officials are available to assist in determining whether contact with a prospective employer is of such a nature that recusal is required.

Post-Employment Restrictions

Government employees are subject to certain restrictions regarding matters they can work on after they leave Government employment. Since these restrictions are complex and technical, employees who need a more detailed description of these restrictions or who require specific advice concerning their applicability should contact an agency ethics official.

Political Activity: Hatch Act

The Hatch Act governs the political activities that a Federal employee may engage in. The following rules apply to career civil service employees (rules vary for some SES, excepted service, and law enforcement employees).

Permitted Activities:

You:

May register and vote as you choose;

May be a candidate for public office in non-partisan elections;

May express opinions about candidates and issues;

May contribute money to political organizations;

May assist in voter registration drives;

May attend and speak at political fundraising functions, but may not make direct appeals for contributions of money for a political purpose;

May permit use of your name (but NOT your title) on an invitation to a political fundraiser as long as such use does not suggest that you are soliciting or encouraging contributions;

May organize or manage fundraising activities, including stuffing envelopes with requests for political contributions, so long as you do not personally solicit contributions, e.g., sign a fundraising letter;

May solicit, accept, or receive uncompensated volunteer services from any individual, except a subordinate, to work on behalf of a partisan political candidate or organization;

May attend and be active at political conventions, rallies and meetings.

Prohibited Activities:

You:

May not use your official authority or influence to interfere with an election;

May not solicit, accept or receive political contributions, even anonymously;

May not engage in political activity in any room or building occupied in the discharge of official duties by an individual employed by, or holding office in the Government of the United States while wearing a uniform or official insignia identifying your office or position or while using any U.S. Government vehicle;

May not knowingly solicit or discourage the political activity of any person who has business before the agency;

May not engage in political activity while on duty;

May not directly or indirectly promise any employment, contract, or other Federal benefit in return for political support for a particular candidate or party;

May not directly or indirectly cause a person to make a political contribution by firing or threatening to fire an employee or by depriving or threatening to deprive any person of Federal employment or other Federal benefit;

May not be a candidate for public office in a partisan election.

Travel

This guidance highlights many of the specialized rules regarding Federal travel. Any questions that an employee has should be addressed to an agency ethics official. Ten common sources of problems are listed below. While many of these rules have exceptions, they tend to be narrow and often require advance guidance.

1. An employee may not use Government funds to pay the costs of personal travel. This is not to say that personal time cannot be taken at a location to which an employee traveled for official business purposes; rather an employee should seek advice from an agency ethics official if planning to do so.
2. Generally, the Government cannot pay for first class airfare.
3. Generally, an employee may not accept in-kind travel benefits (e.g., free airfare or lodging) or travel reimbursement from those who have interests in issues before the agency.
4. The Government cannot pay for the expenses of travel for partisan political purposes.
5. The Government may not pay the expenses of a spouse accompanying an employee on official travel unless the spouse is performing official Government business.
6. Except when accommodations on American flag airlines are not reasonably available, an employee may not fly on official business on foreign flag carriers. Also, unless certain exceptions apply, an employee must use Government contract fares for official travel.
7. An employee may not use a Government-issued credit card to charge personal, non-reimbursable expenses.
8. An employee may not take advantage of Government contract rate airfares for personal travel.
9. Generally, an employee may not be reimbursed for lodging or for meals and incidental expenses in amounts greater than the maximum per diem rates established for the location to which he or she travels. If lodging will exceed the authorized rate, the employee should obtain approval from the appropriate TTB official prior to the travel.
10. An employee may retain for his or her personal use promotional items, including frequent flyer miles, earned on official travel. However, any associated costs are to be paid by the traveler, and are not a reimbursable expense.

Travel Reimbursement from Non-Federal Sources

Employees may accept reimbursement (in cash or in kind), from sources outside the Federal government, for the expenses of official travel under limited circumstances. Three distinct legal authorities allow for accepting such reimbursements. These authorities provide the exclusive

means for the acceptance of reimbursements from outside, non-Federal sources for the official travel of Federal employees.

1. The Training Act (5 U.S.C. § 4111) authorizes the acceptance of travel payments from certain tax-exempt (501(c)(3)) organizations as well as state and local governmental entities.

2. Section 302 of the Ethics Reform Act of 1989 (now codified at 31 U.S.C. § 1353) authorizes the agency to accept travel payments from a much broader range of non-Federal entities than may be accepted under the Training Act.

3. The Foreign Gifts and Decorations Act (5 U.S.C. § 7342) authorizes employees to accept gifts of travel or expenses of travel taking place entirely outside the United States.

An employee must consult an agency ethics official before accepting payment under any of these statutes.

Conclusion

You can find governing source documents and helpful links on the TTB Ethics webpage at: <http://ttbweb/ethics/index.html>. E-mail your questions to Ethics@TTB.gov or call the Office of Chief Counsel at 202-927-1900.

Certification

I have been given a copy of this summary as well as a copy of the Treasury Ethics Handbook. I also understand that a copy of the Handbook and other ethics resources are available for review on the TTB Ethics webpage and that I should contact an agency ethics official in the Office of Chief Counsel if I have any questions. I understand that I am entitled to one hour of official duty time to review this letter and those ethics materials and that I have already spent at least one hour doing so or will do so within the first 90 days of my employment with TTB as required by 5 CFR § 2638.703.

Signature

Date

Name (Print)

Office and Duty Title