

[Question 4: What Kind of Gift Is It, and Do Special Rules Apply as a Result?](#)

## **Gifts of Home Hospitality**

As discussed in Part 1, the concept of gift is very broad and includes meals, beverages<sup>1</sup> and free lodging.<sup>2</sup> If such gestures do not come from a family member,<sup>3</sup> an official typically must track the value of such gestures (question 1), report them on his or her [Statement of Economic Interests](#) and not let such gestures total \$420 or more from a single source in a calendar year.<sup>4</sup>

There is one exception, however, for gestures that an official receives in someone's home. Consequently, an official need not track the value of food, beverages and occasional lodging he receives in someone's home.<sup>5</sup> The concept of "home" includes a vacation home.<sup>6</sup>

For the exception to apply, the host must be present.<sup>7</sup> The host must also own the home (in other words, not be renting it)<sup>8</sup> and must foot the bill for the hospitality.<sup>9</sup> Assuming that the host is indeed footing the bill for the hospitality is OK, unless you are informed otherwise or it is clear from the circumstances that someone else is paying.<sup>10</sup>

Keep in mind that the home hospitality exception is intended to apply to genuinely social relationships. As a result, providing such hospitality cannot be part of the host's compensation arrangement (that is to say, the host cannot be paid to extend hospitality).<sup>11</sup> The host also may not deduct such costs on his or her taxes.<sup>12</sup> So if you attend a dinner or party at the home of a local developer and suspect that the developer's company is paying for the catering, the home hospitality exception would not apply and the value of what you received at the event would be determined by the type of event it was; for example, a fundraiser, invitation-only event, testimonial dinner, etc.

Stay tuned, as the FPPC is proposing additional regulatory guidance on home hospitality in 2011.<sup>13</sup>

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Although the Institute tries to help local officials understand laws that apply to their public service, these materials are not legal advice. Attorneys can and do disagree on the best interpretation of the law in any given area. In addition, the law can and does change over time. Officials are encouraged to consult with an attorney or relevant regulatory authorities for up-to-date information and advice on specific situations.

As the acknowledgements section indicates, the Institute's work reflects input from a variety of sources. The Institute welcomes feedback and suggestions for improving this resource:

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This excerpt was taken from the June 2011 installment of Western City magazine gift series. The entire article can be found at [www.westerncity.com](http://www.westerncity.com)

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<sup>1</sup> See 2 Cal. Code Regs. § 18942.1 (payments for food are a gift).

<sup>2</sup> *Ross Advice Letter*, No. A-10-082 (2010) (payment for mayor's lodging on trip to Singapore to represent US Conference of Mayors is a gift subject to the reporting requirements).

<sup>3</sup> Cal. Gov't Code § 82028(b)(3); 2 Cal. Code Regs. § 18942(a)(3). But see proposed expansions to the definition of family: <http://www.fppc.ca.gov/legal/proposed-regs/18942%28noticed%29.pdf>.

<sup>4</sup> See Cal. Gov't Code §§ 87207(a)(1) (disclosure), 89503 (limits).

<sup>5</sup> 2 Cal. Code Regs. § 18942(a)(7)(A).

<sup>6</sup> See *Remcho Advice Letter*, No I-88-254 (1988).

<sup>7</sup> 2 Cal. Code Regs. § 18942(a)(7)(A).

<sup>8</sup> See *McChesney Advice Letter*, No. A-93-421 (1997) (leasing a recreational vessel not sufficient); *Ryan Advice Letter*, No. A-09-283 (2010).

<sup>9</sup> 2 Cal. Code Regs. § 18942(a)(7)(A)(i).

<sup>10</sup> 2 Cal. Code Regs. § 18942(a)(7)(B)(ii).

<sup>11</sup> 2 Cal. Code Regs. § 18942(a)(7)(A)(iii).

<sup>12</sup> 2 Cal. Code Regs. § 18942(a)(7)(A)(ii).

<sup>13</sup> See Proposed 2 Cal. Code Regs. § 18942.2 (<http://www.fppc.ca.gov/legal/proposed-regs/18942.2%28noticed%29.pdf>).