



# Palm Beach County Commission on Ethics

## Commissioners

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

## Executive Director

Alan S. Johnson

RQO 10-005

June 25, 2010

Commissioner Jeff Koons  
Palm Beach County Board of County Commissioners  
301 North Olive Avenue  
West Palm Beach, FL 33401



Re: RQO 10-005  
Gift valuation

Your request for advisory opinion to the Palm Beach County Commission on Ethics has been received and reviewed. The opinion rendered is as follows:

YOU ASKED in your letter of June 17, 2010, whether lodging at a friend's home in the Bahamas is considered a gift, and if so, is there a requirement to report the gift if equal or greater consideration is given in return and contemporaneously with the gift.

IN SUM, since the Palm Beach County Code of Ethics is silent as to the manner of valuing and reporting gifts other than to refer to s. 112.3148, Florida Statutes, both the State Code of Ethics and State Commission on Ethics opinions were consulted. The resulting opinion is that while the lodging in the Bahamas standing alone would be a reportable gift, your contribution to the donors was of greater consideration thereby offsetting the gift and eliminating any requirement under the code.

THE FACTS as we understand them are as follows:

You were a guest at a friend's private residence in the Bahamas for four nights. Relatives of your hosts lease property from the county for agricultural purposes. During your stay, you personally bought food and beverages valued at \$800.00, bought dinner for \$200.00, contributed an additional \$200.00 for housekeeping and fishing activities and provided air travel for your hosts back to Florida at a value of \$1000.00.

THE LEGAL BASIS for this opinion relies on the following relevant State Statutes:

s. 112.3148(7)(b) Compensation provided by the donee to the donor, if provided within 90 days after receipt of the gift, shall be deducted from the value of the gift in determining the value of the gift.

(e) Lodging provided on consecutive days shall be considered a single gift. Lodging in a private residence shall be valued at the per diem rate provided in s.112.061(6)(a)1...

s. 112.061(6)(a)1. Eighty dollars per diem



# Palm Beach County Commission on Ethics

**Commissioners**

Edward Rodgers, *Chair*  
Manuel Farach, *Vice Chair*  
Robin N. Fiore  
Ronald E. Harbison  
Bruce E. Reinhart

**Executive Director**

Alan S. Johnson

s. 112.312(12)(a) "Gift" for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf...*for which equal or greater consideration is not given within 90 days...* (emphasis added)

In 1991, the State Commission on Ethics rendered an advisory opinion regarding gifts received by a reporting individual at a golf tournament from the tournament sponsor. As part of its opinion the commission stated, "Where the recipient provides equal or greater consideration than that which is given by the donor, it does not constitute a gift" (CEO 91-45 (July 19, 1991)).

IN SUMMARY, while the total lodging value per statute is \$320.00 (four nights at \$80.00 per diem), the return consideration that you provided to your hosts was substantially greater in value and therefore the lodging is not considered a gift within the meaning of the Palm Beach County Code of Ethics.

This opinion construes the Palm Beach County Code of Ethics, and State Statutes by reference, however, it is not applicable to any other conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact me at (561) 233-0724 should you have any questions or if we can be of further assistance in this matter.

Sincerely,

Alan S. Johnson  
Executive Director  
Commission on Ethics