RULE 10.12 – EMPLOYEE GIFTS, PRIZES, AND AWARDS

Adopted Date: 01/03/2012
Revised Date: 12/16/2022

PURPOSE

The purpose of this fiscal accountability rule is to establish the guidelines regarding gifts, prizes, and awards given to City and County of Denver (city) employees, and the reporting and tax treatment of the gifts, prizes, and awards.

A city employee who receives a gift from non-city persons or entities shall comply with all applicable provisions of Revised Municipal Code – Chapter 2 – Administration, Article IV – Code of Ethics. Prizes and awards presented to an employee as an incentive by the city shall comply with this fiscal accountability rule. Additionally, this rule shall be read in conjunction with Fiscal Accountability Rule 7.1 – Propriety of Expenditures and expenditures of city funds must be in the best interest of the city.

Generally, the Internal Revenue Code (IRC) provides that a prize and/or award given to a city employee is taxable and shall be reported as income on the employee's W-2. The IRS requires the city to withhold federal income taxes, state income taxes, Social Security and Medicare. If the city pays the employee's share of taxes on a prize or an award, the amount of taxes paid are additional wages to the employee (except for agricultural and domestic services) and are subject to all payroll taxes, as discussed above.

Failure to comply with the IRC may result in the city incurring substantial tax and penalty assessments.

Departments/Agencies may implement policies that are more restrictive, but not more generous than this rule, as long as the more restrictive policies are consistently applied. All questions concerning the specific tax consequences of any gift, prize, or award should be directed to the Controller's Office, Payroll Division.

DEFINITIONS

Award – A cash or non-cash item given as an incentive by the city to an employee to show thanks, support, goodwill, or recognition of an outstanding accomplishment. Examples of an award include:

- Job performance achievement;
- Retirement; or
- Other job performance related activity.

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Gift – A cash or non-cash item given to an employee from non-city persons or entities as a gesture of goodwill or appreciation, or in recognition of, or in connection with a holiday season, or some other purpose not specifically related to regular job performance. Examples may include, but are not limited to:

- Holiday or birthday gifts;
- Gift baskets;
- Flowers; and
- Occasional tickets to theatre or sporting events.

De Minimis – A non-cash prize or award that is so small that accounting for it would be unreasonable or administratively impractical. De minimis prizes or awards given by the city to an employee may only be provided on an occasional basis and must be small in amount. The city considers de minimis value of non-cash gifts to be $50 or less. **Cash awards, gift cards and gift certificates are never considered de minimis.**

Some examples of de minimus fringe benefits would include the following:

- Holiday gifts, other than cash, with a low fair market value
- Occasional parties or picnics for employees and their guests
- Occasional theater or sporting event tickets
- Coffee, sodas, snacks, etc. provided for employees
- Occasional meals provided to enable employees to work overtime

The following **do not qualify** as de minimis fringe benefits:

- Cash – except for occasional and infrequent meal money to allow overtime work
- Cash equivalent (i.e., savings bond, gift certificate for general merchandise at a department store)
- Membership in a country club or athletic facility

Prize – A cash or non-cash item given as an incentive by the city to an employee at random or as a result of chance, not directly related to job performance. Examples include random door prizes and raffles at city sponsored events.

Non-cash – A prize or award of property such as a plaque, gift baskets, flowers, occasional tickets for a sporting or cultural event, electronic equipment, T-shirts, etc. Gift cards/certificates redeemable for cash are treated the same way as cash for tax purposes.

Taxable – Means the benefit is included in the employees' wages and reported on Form W-2, Wage and Tax Statement, and generally is subject to Federal income tax withholding, Social Security, and Medicare.

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RULES

1. Employees who receive a gift from non-city persons or entities shall comply with all applicable provisions of Revised Municipal Code – Chapter 2 – Administration, Article IV – Code of Ethics.

2. The maximum total of all prizes and awards presented to an employee shall not exceed $400 during a single year. Employee bonuses paid in accordance with city ordinances are not considered awards for purposes of the annual maximum.

3. Prizes and awards of $50 or less, and those that are in the form of a gift card and/or gift certificate with no cash surrender value, and with an individual or combined value of $50 or less, shall not be considered taxable income to the employee. The gift card and/or gift certificate must clearly state that the gift card and/or gift certificate has no cash surrender value. Theater and sporting event tickets are included in this exception.

4. Prizes and awards in the form of cash or a gift card and/or certificate redeemable for cash, regardless of the dollar value, shall be considered taxable income to the employee and reported to the Controller's Office, Payroll Division, using the Employee Gifts, Prizes, and Awards Reporting Form to determine taxation and reporting requirements within five (5) business days after presenting the prize or award.

5. Prizes and awards over $50 shall be considered taxable income to the employee and reported to the Controller's Office, Payroll Division, using the Employee Gifts, Prizes, and Awards Reporting Form to determine taxation and reporting requirements within five (5) business days after presenting the prize or award.

6. Non-cash Length of Service Awards are excluded from taxation if the following conditions are met:

   A. The employee has five years or more of service; and

   B. The employee has not received a length of service award within the last five years; and

   C. The award is presented as part of a meaningful ceremony; and

   D. The cost of the award is less than $400.

   Note: A traditional retirement award is an exception to the 5-year rule.

7. Non-cash Safety Achievement Awards recognizing an employee's accomplishments for maintaining or promoting defined safety standards are non-taxable when the following conditions have been met:

   A. The award is limited annually to less than 10% of department/agency employees;

   B. The award is not presented to managers, administrators, clerical, and professional employees; and,

   C. The award is limited to $400 per employee per year.

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8. Traditional retirement gifts of $400 or less are excluded from taxation regardless of length of service. Retirement gifts over $400 will be reported as taxable wages and taxed accordingly.

9. Employees shall annually report every gift, prize, and award presented and accepted on the Employee Financial Disclosure Statement.

AUTHORITY AND ACCOUNTABILITY

The **Controller's Office** is responsible for this fiscal accountability rule and any procedures, guides, job aids, forms, and one-page summaries associated with this rule.

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