

The so-called Emoluments Clause provides that those who are subject to it (all FTEs and some SGEs) may not accept any “present [gratuitous gift], emolument [pay for services], Office, or Title” unless Congress has provided authorization to do so. Congress authorized the acceptance of some gratuitous gifts from foreign governmental entities through the passage of the Foreign Gifts and Decorations Act (FGDA). The FDGA has application separate and apart from its function as an exception to the Emoluments Clause; it may limit the acceptance of gifts offered by a foreign governmental entity even if the Emoluments Clause does not apply to the employee.

IF Emoluments Clause APPLIES, no titles, offices, or pay for services is permitted; gifts are permitted ONLY as described in the FGDA.

Notwithstanding the Emoluments Clause restrictions on gifts, Congress consented to the acceptance of some gifts through the FGDA (5 U.S.C. § 7342). So employees **MAY** personally accept the following from a foreign governmental entity:

- 1) Travel occurring entirely outside of U.S.;
- 2) Educational scholarships;
- 3) Decorations;
- 4) Medical treatment; and
- 5) Gifts of minimal value (now \$375) offered as a souvenir or mark of courtesy

The bottom line: FTEs and SGEs covered by the Emoluments Clause may NOT personally accept (from a foreign governmental entity) pay for services or gifts, except as provided above. Note – Payment or reimbursement to “employer” (like 348 travel accepted by the NIH) not prohibited.

IF Emoluments Clause does NOT apply, titles, offices, or pay for services is permitted, but gratuitous gifts are still limited by the FGDA.

Independent of the Emoluments Clause, the FGDA (5 U.S.C. § 7342) still restricts the receipt of some gifts from foreign governmental entities. So employees may **NOT** accept **gratuitous gifts** from a foreign governmental entity **other than:**

- 1) Travel occurring entirely outside of U.S.;
- 2) Educational scholarships;
- 3) Decorations;
- 4) Medical treatment; and
- 5) Gifts of minimal value (now \$375) offered as a souvenir or mark of courtesy

The bottom line: SGEs not covered by the Emoluments Clause MAY personally accept pay or reimbursement in exchange for services, but may NOT accept gratuitous gifts, except as provided above.