

Employee Benefits

Tiny Toilers' Eyes All Aglow? Careful How You Hand Out Gifts

It's not Scrooge-like and may actually boost employee morale to place strict limits on office holiday gift-giving, or even to end the practice, consultants say.

"While gift giving creates a sense of loyalty, it can also create hard feelings and have legal risks," Rachel Powitzky Steely, a partner in the Houston office of the law firm Gardere and co-chair of its labor and employment practice, told Bloomberg Law in a Dec. 5 email.

Holiday gift-giving and receiving etiquette prompts an annual flurry of anxious letters to advice columnists late in the year, but the anxiety is even worse where people's livelihoods are on the line. Many employees feel obliged to spend more than they would like or can easily afford for colleagues or managers, and that is where the organization can step in and let people know that such strained generosity isn't expected or even desired.

"One of the best things a boss ever did for me was to say in November, 'I appreciate everything you do, but don't get me a gift, and I won't be getting you one. We'll celebrate some other way,'" Joe Weinlick, senior vice president of Nexxt, a recruitment marketing platform based in King of Prussia, Pa., told Bloomberg Law Dec. 5.

Sincere messages of appreciation from a manager to a subordinate can mean much more than "a generic gift," Weinlick said. It's also important, he said, to separate the personal side of holiday good feelings and messages of appreciation from employees' holiday bonuses.

Avoid 'Sexy-Grams' Holiday bonuses or donations to a charity of the employee's choice are the best holiday gifts employers can give, Rob Wilson, president of Westmont, Ill.-based HR service company Employco USA, told Bloomberg Law Dec. 5. If holiday gifts are to

be given in the office at all, the best way to handle them is through "white elephant gift exchanges" where everyone puts one gift in and gets one gift back on an anonymous basis, he said.

"It's a touchy topic, especially this year with the harassment and discrimination issues," Wilson said.

Improper holiday gifts can cause offense leading to legal liability even for office bystanders. "In one situation I addressed, employees hired a sexy-gram as a joke for their boss," Steely recalled. "Others in the office were not amused, leading to a lengthy investigation."

Other employment law factors come into play as well. Employers need to be aware that holiday bonuses must be included in overtime pay calculations if they are awarded every year without fail and employees have come to expect them, Steely said.

In developing a policy to avoid problems around holiday gift giving, "it's critical that employees and managers are required to disclose gifts they give and receive," Ingrid Fredeen, vice president, online learning content, for Lake Oswego, Ore.-based compliance and ethics company NAVEX Global, told Bloomberg Law in a Dec. 5 email. "Visibility and transparency helps ensure that gifts that are received are handled properly under policy, and that inappropriate gifts are not being given."

Managers and employees alike need to be informed of the policy, she said, so they can understand "it's about avoiding conflicts of interest, the risk of improperly influencing business judgment, and for some employers violating the law. December is a great time to send out a quick training to all employees about what is expected."

BY MARTIN BERMAN-GORVINE

To contact the reporter on this story: Martin Berman-Gorvine in Washington at mbermangorvine@bloomberglaw.com

To contact the editors responsible for this story: Jo-el J. Meyer at jmeyer@bloomberglaw.com, Tony Harris at tharris@bloomberglaw.com

To request permission to reuse or share this document, please contact permissions@bna.com. In your request, be sure to include the following information: (1) your name, company, mailing address, email and telephone number; (2) name of the document and/or a link to the document PDF; (3) reason for request (what you want to do with the document); and (4) the approximate number of copies to be made or URL address (if posting to a website).