

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 04-38**

September 30, 2004

**RE:** May employees accept voucher to purchase up to \$80 worth of merchandise from computer company on-line store at employee discount?

**DECISION:** Yes, up to a discount value of \$25.

This opinion is issued in response to your September 22, 2004 request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the September 30, 2004 meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. Four individuals from the Office of Financial Institutions will be attending the Conference of State Bank Supervisors Seminar ("Seminar") in Seattle. Microsoft has offered to distribute to Seminar registrants an \$80 voucher for use at their online store. The voucher is not a cash offer, but an offer to purchase up to \$80 worth of merchandise at the Microsoft employee discount. You ask if it is acceptable for the employees attending the Seminar to accept and use the voucher.

KRS 11A.045(1) provides:

(1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he

supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.

In Advisory Opinions 01-1 and 02-39, the Commission stated that vendors of a state agency are not prohibited from offering reasonable discounts to state employees who wish to purchase computer products, provided the discounts are offered to employees of all state agencies and are not limited to a select group or a particular agency, and provided the vendor offers a reasonably consistent discount to its other customers' employees.

In this case, it appears that Microsoft is offering the discount only to registrants of the Seminar. Thus, if the Office of Financial Institutions does business with Microsoft, the Commission believes that employees attending the Seminar should only accept and use the voucher discount up to a value of \$25. For example, if the employee discount is 20%, then the employees could use the entire voucher as the discount would be a \$20 value -- \$100 worth of merchandise that would cost the employee \$80. If the discount is 50%, then the employee should only use \$50 of the voucher, which would give the employee a \$25 discount.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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BY CHAIR: