

# ETHICS FOR TAX ASSESSOR-COLLECTORS

---

CONNOR BUCHANAN, ATTORNEY  
MCCREARY VESELKA BRAGG & ALLEN, P.C.

1

---

---

---

---

---

---

---

---

## GOALS AND OBJECTIVES

---

- The class will review the guiding principles of ethics for tax assessor-collectors.
- It will also outline the Texas laws and other rules applicable to tax assessors and the penalties for violating those laws and rules.
- Finally, it will highlight applicable scenarios likely to bring up ethical considerations in tax offices.

2

---

---

---

---

---

---

---

---

## OVERVIEW

---

- Ethics Generally
  - Ethics Defined
  - Why study ethics?
  - Rules applicable to Tax Assessors
- Texas Penal Code Offenses
  - Honorarium
  - Bribery
  - Gifts
  - Misuse of Official Information
- Conflicts of Interest

3

---

---

---

---

---

---

---

---

### ETHICS DEFINED

---

- 1) The study of standards of conduct and moral judgment
- 2) A system or code of morals of a particular group or profession
- 3) Conforming to the standards of conduct given to a profession or group

4

---

---

---

---

---

---

---

---

### WHY STUDY ETHICS?

---

- BECAUSE WE NEED ETHICS CREDITS!
- Ease of decision making
- Setting a standard for professional conduct
- Knowing right from wrong
- Self discipline
- A port in a storm

5

---

---

---

---

---

---

---

---

### FIVE ETHICAL PRINCIPLES TAC'S STRIVE FOR

---

- Credibility
- Responsibility
- Respect
- Fairness
- Honesty

6

---

---

---

---

---

---

---

---

### TACA RULES OF PROFESSIONAL CONDUCT

- The TACA has adopted ethical standards to serve as the practical, moral, and idealistic guidelines to protect against abuse of office, and to instill public confidence and trust.
- GOAL: give citizens, taxpayers, and other elected officials confidence that Tax Assessors work in conformity with objective standards.

7

---

---

---

---

---

---

---

---

### TACA RULES OF PROFESSIONAL CONDUCT

- As members of the professional association, demonstrate your commitment to the core values of integrity, fairness, openness, and respect by:
  1. Performing duties in accordance with applicable laws and regulations.
  2. Applying rules without favoritism or prejudice.
  3. Performing assignments to the best of your ability.
  4. Providing accurate, complete information in a timely manner.
  5. Basing decisions on accurate, reliable, and timely fashion.
  6. Being open, courteous, and respectful when dealing with the public.
  7. Deciding all matters on values that are free of conflicts of interest and improper encouragement.

8

---

---

---

---

---

---

---

---

### TACA RULES OF PROFESSIONAL CONDUCT

- 8. Fully disclose any real or potential conflicts of interest.
- 9. Refrain from accepting any benefit or honorarium that could reasonably be regarded as a financial gain or advantage.
- 10. Never soliciting, accepting, or agreeing to accept any benefit for having exercised official powers or performed official duties in favor of another, except for payments for travel expenses in connection with a conference, or honoraria for services that were not requested because of the official's status.
- 11. Never accepting or soliciting any gift, favor, or service that might reasonably influence the discharge of official duties, or that you know, or should know, is being offered with the intent to influence your official conduct.
- 12. Never disclosing confidential information acquired by virtue of your official position that would help in any type of business transaction or be used for a nongovernmental purpose with the intent to benefit or harm another. Do not accept other employment or compensation that would involve disclosing confidential information acquired via the official position.
- 13. Not making personal investments that could reasonably be expected to create a substantial conflict between the official's private interest and the public interest.

9

---

---

---

---

---

---

---

---

CRIMINAL OFFENSES – TEXAS PENAL CODE

---

- Honorariums
- Bribery
- Gifts
- Use of Information



10

---

---

---

---

---

---

---

---

ACCEPTANCE OF HONORARIUM – TPC 36.07

---

- **Benefit/Honorarium:** Anything reasonably regarded as a financial gain or advantage including a benefit to any other person you have a direct and substantial interest in.
- When is it an offense?
  - " A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties."



11

---

---

---

---

---

---

---

---

ACCEPTANCE OF HONORARIUM – TPC 36.07

---

- **EXCEPTION – Texas Penal Code Section 36.07(b)**
  - The law does NOT prohibit a public servant from accepting
    - 1) transportation
    - 2) lodging expenses
    - 3) meals
  - In connection with a conference or similar event
  - Where the public servant renders services



12

---

---

---

---

---

---

---

---

### BRIBERY – TEXAS PENAL CODE 36.02

- "A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another... any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter."
- Elements:
  - Solicits, accepts, or agrees to accept
  - Consideration
  - MENS REA: Intentionally or knowingly

13

---

---

---

---

---

---

---

---

### GIFT TO A PUBLIC SERVANT – TEXAS PENAL CODE 36.08

- A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.
- Elements:
  - Soliciting, accepting, or agreeing to accept a benefit
  - From a person subject to your authority
  - NO MENS REA

14

---

---

---

---

---

---

---

---

### EXCEPTIONS TO THE GIFT RULE – TPC 36.10

- Any item, excluding cash or negotiable instruments, under \$50
- A gift or other benefit given on account of kinship or personal relationship
- Honorariums that meet TPC requirements
- Certain benefits received as a guest
- Political Contributions

15

---

---

---

---

---

---

---

---

### POLITICAL CONTRIBUTIONS – TEXAS ELECTION CODE TITLE 15

- **Contribution:** "A direct or indirect transfer of money, goods, services, or any other thing of value, including an agreement made or obligation incurred to make a transfer."
  - Also includes loans or lines of credit.
- **Officeholder Contributions:** ...used solely to defray the expenses accrued in performance of duties in connection with the office which are not reimbursable...
- **Campaign Contributions:** ...offered or given with the intent that it be used in connection with a campaign for elective office...
- **Texas Penal Code 36.02(4)**

16

---

---

---

---

---

---

---

---

### MISUSE OF OFFICIAL INFORMATION – TPC 39.06

- A public servant commits an offense if, in reliance on information to which the public servant has access by virtue of the person's office or employment that has not been made public, the person:
  - Acquires or aids another in acquiring some financial interest
  - Speculates or aids another in speculation
  - Releases said information with the intent to defraud or harm another

17

---

---

---

---

---

---

---

---

### CONFLICT OF INTEREST – LOCAL GOVT CODE CH 171

- Establishes the standard for county officials and conflicts of interest that would affect their ability to discuss, decide, or vote on a particular item.
- Applies to BOTH:
  - 1) Elected officials
  - 2) Appointed officials who exercise responsibilities more than "advisory in nature"
- Two categories of conflicts:
  - 1) Business Entity Conflicts
  - 2) Real Property Conflicts

18

---

---

---

---

---

---

---

---

### BUSINESS ENTITY CONFLICT OF INTEREST

- What is a "business entity?"
- How do we determine if a conflict exists?
  - 1) Substantial Interest in a Business Entity
    - Stock interest
    - Other Ownership
    - Income
    - Close Family Member
  - 2) Special Economic Effect

---

---

---

---

---

---

---

---

19

### REAL PROPERTY CONFLICT OF INTEREST

- Similar two-part test:
  - 1) Substantial Interest in Real Property
    - \$2,500 or more
    - Close family member
  - 2) Special Economic Effect

---

---

---

---

---

---

---

---

20

### WHAT TO DO WHEN A CONFLICT ARISES...

- 1) File an affidavit AND
- 2) "Abstain from participation on the matter"
  - Discussion
  - Voting
  - Being present?

---

---

---

---

---

---

---

---

21

### VIOLATION OF COI LAWS

---

- 1) Possibility of action becoming voidable
- 2) Criminal Penalty
  - Class A Misdemeanor
  - \$4,000 fine and up to one (1) year in jail
- 3) Removal From Office

22

---

---

---

---

---

---

---

---

### SPECIAL COI LAWS FOR TAX ASSESSORS

---

- Texas Tax Code Chapter 312
  - Reinvestment Zones
    - TIFs
    - Abatement Agreements

23

---

---

---

---

---

---

---

---