



Business/Marketing Virtual Learning

10-12 grade Business Law

May 5, 2020



Lesson: [May 5, 2020]

Objective/Learning Target:

Consideration

Identify the three requirements of consideration.

Let's Get Started

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[Contract Consideration](#)



Consideration

CONSIDERATION - what a person demands and generally must receive in order to make her or his promise legally binding. There are three requirements of consideration:

- 1) Each party must make a promise, perform an act, or forbear (refrain from doing something).
- 2) Each party's promise, act, or forbearance must be in exchange for a return promise, act, or forbearance by the other party.
- 3) What each party exchanges must have legal value, that is, it must be worth something in the eyes of the law. For example, acts—including binding promises, forbearances, detrimental changes in position, and property—are all considered to have legal value.

Consideration distinguishes a contractual promise from a promise to make a **gift**. A gift is a transfer of ownership without receiving anything in return. A promise to make a gift generally is not legally enforceable. Only after a **donor** (the person giving the gift) intentionally transfers the gift to the **donee** (the person receiving the gift) and the donee accepts it does the transaction become legally binding.

Consideration

We will further examine the requirements of contractual consideration:

- 1) **Promise, Act, or Forbearance** - When looking for consideration, look for legal value in the underlying act that is promised. If someone promises **forbearance**—or to not do something—look beneath the promise and ask if the forbearance has legal value. Both the acts and promise have value in the eyes of the law.
- 2) **Contractual Exchanges** - In a typical contract, one party in effect says to another, “If you do this for me (pick up my mail and watch the house), I shall do that for you (pay you \$100).” A person promising an action or forbearance is the **promisor**. The person to whom the promise is made is the **promisee**. In most contracts, the consideration necessary to legally bind a would-be promisor to his or her promise is identified through bargaining leading up to a mutual exchange of promises. In certain instances, however, bargaining is not possible. Consequently, an offeror must make a blind unilateral offer hoping the offeree will accept by performing the consideration the offeror desires. Consideration must be mutual. If either of the parties does not receive the required consideration, that party has no duty to perform as promised.

Consideration

- 3) **Legal Value** - Legal value means there has been a change in a party's legal position as a result of the contract. Legal value (a change in legal position) is most commonly found in this form—in the exchange of two benefits.

Legal value also can be found in the exchange of benefit for a detriment. With regard to legal value, the detriment is the forbearing of a legal right. A detriment always arises when you promise forbearance—that is, promise to refrain from doing what you have a right to do. If your uncle said on your eighteenth birthday, “Look, if you refrain from driving until your twenty-first birthday, I’ll give you \$25,000.” You respond, “Yes, I accept.” What you have promised is not a benefit to your uncle, but rather a detriment to yourself—you have given up a legal right. This is a change in your legal position and is thus valid consideration.

Legal value also can arise from the exchange of two detriments. If you say to your neighbor that you will forbear buying a dog if she will forbear building a fence and she agrees, both parties have changed their legal positions. Therefore, there is consideration for each party's promise.

ACTIVITY #22

- 1) List the three requirements of consideration.
- 2) After you ask for permission, your dad promises that he will let you go out tonight if you will clean your room to his satisfaction tomorrow. You agree. Who is the promisor and who is the promisee in this situation?
- 3) John, a writer, gets a call from his editor and, consequently, has to leave immediately on a research trip to Hudson Bay and Newfoundland in Canada. As the trip should take a couple of weeks, he leaves a note offering to pay his neighbor, Jordan, \$100 to watch his house and feed and walk his dog during the absence. John then leaves without ever speaking to Jordan. Jordan gets the note and complies.
 - a) Is there an enforceable contract?
 - b) What is the consideration for each party?
 - c) Was Jordan's consideration an act or a forbearance in the contract that was created? Explain.

ACTIVITY #22

- 4) Benton was talking to his brother about the upcoming graduation from high school of Trieste, his brother's daughter. Benton mentioned he had been thinking about buying her a motor scooter as a graduation present. Benton's brother, concerned about the safety of scooters, offered to pay Benton \$1,000 not to do so. Benton, who did not have the money to buy the scooter at the present time, accepted.
- Is there consideration for the brother's promise to pay the \$1,000?
 - If so, what is it?
- 5) Gil found a nearly new engine in his neighbor's garage. He was experienced enough to see that it was in good shape. When he asked the neighbor how much she wanted for it, she said "you can have it if you'll get it out of here by the weekend and clean up the oil and grease around where it was." Gil said, "Okay," even though he knew the engine was worth nearly \$1,200.
- Is this a valid contract?
 - Why or why not?