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ADVISORY COMMITTEE ON FEDERAL PAY

5 CFR Chapter IV

Removal of CFR chapter

Effective January 25, 1991, the Advisory Committee on Federal Pay was terminated. Therefore, the **Office of the Federal Register** is removing ACFP regulations pursuant to its authority to maintain an orderly system of codification under 44 U.S.C. 1510 and 1 CFR part 8.

Accordingly, 5 CFR is amended by removing parts 1400 through 1499 and vacating Chapter IV.

[FR Doc. 99-55530 Filed 9-13-99; 8:45 am]
BILLING CODE 1505-01-D

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2634

RIN 3209-AA00

Revisions to the Public Financial Disclosure Gifts Waiver Provision

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule amendments.

SUMMARY: The Office of Government Ethics is amending portions of the executive branch regulation which allows the OGE Director to grant a waiver of certain gift disclosure requirements for filers of the public financial disclosure report form, SF 278. The amendments permit the grant of a waiver in appropriate cases, if the basis of the relationship between the grantor and grantee of a gift and the motivation behind a gift are personal. The changes also clarify that the cover letter requesting a waiver will be publicly available if the Director of OGE approves the waiver request, either in whole or in part. Additionally, the

amendments expressly require that a description of the gift and its value be included in a waiver request. Finally, the changes explicitly require that the information required to be in a waiver request pertaining to the donor must include the necessary information for each donor when a gift has multiple donors.

EFFECTIVE DATE: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Judy H. Mann, Attorney-Advisor, or Norman B. Smith, Senior Associate General Counsel, Office of Government Ethics; telephone: 202-208-8000; TDD: 202-208-8025; FAX: 202-208-8037.

SUPPLEMENTARY INFORMATION: On May 13, 1999, OGE published proposed minor amendments to the executive branch regulation which requires the disclosure of certain gifts received by the filers of the Standard Form (SF) 278 Public Financial Disclosure Report forms, their spouses, and their dependent children. See 64 FR 25849-25851. After a 60-day comment period, no outside comments from the public or agencies were received. Therefore, OGE is publishing the proposed amendments, subject to a few minor modifications that OGE has decided to make, as a final rule, effective October 14, 1999. A summary of the amendments follows.

Under 5 CFR 2634.304, and 5 U.S.C. app., section 102(a)(2) of the Ethics in Government Act, a person who files an SF 278 is required to report certain gifts that he, his spouse, or his dependent child receives. Section 2634.304, as authorized by the Ethics Act, permits a filer not to disclose certain gifts if the filer receives a waiver from OGE. These final rule amendments to OGE's financial disclosure regulation permit the OGE Director to grant a waiver of reporting if he determines that the basis of the relationship between the grantor and the grantee and the motivation behind the gift are "personal," rather than "entirely personal," provided that no countervailing public purpose requires public reporting. In addition, the final amendments will provide a few technical clarifications. First, the amendments clarify at § 2634.304(f)(2) that the public can access the cover letter of a waiver request for which the Director of OGE has granted full or partial approval. Second, new § 2634.304(f)(3)(ii)(D) will require the filer explicitly to include both a

description of the gift and its value in the waiver request. Finally, under § 2634.304(f)(3)(iii) as revised, a filer must provide the required information with respect to each donor of the gift.

The Office of Government Ethics has determined on its own to make a few minor adjustments which will further clarify the rule. First, we are now amending the passage in the introductory text of § 2634.304(f)(1), which states that a gift for which a waiver is granted "need not be aggregated under this section by public filers," to state that "the value of a gift as defined in § 2634.105(h) need not be aggregated for reporting threshold purposes under this section by public filers, and therefore the gift need not be reported on an SF 278" if a waiver is granted. The revised language will help clarify the relationship between aggregation and reporting by stating that the waiver of the requirement for SF 278 filers to aggregate a gift has the effect of waiving the requirement to report the gift, since gifts are only reportable if they aggregate more than the dollar value threshold from any single source. The new wording also reemphasizes that the waiver procedure applies to filers of SF 278s rather than filers of the OGE Form 450. Because the OGE Form 450 is nonpublic, no purpose would be served by a procedure for waiving public disclosure of information which they contain. In the final minor technical modification, the language as proposed in paragraph ii of the new example to paragraph (f)(1) of § 2634.304 will be changed from stating that "the Director of OGE will consider a request for a waiver of reporting for each of these gifts" to "the Director of OGE may grant a request for a waiver of the requirement to aggregate and report on an SF 278 each of these gifts." This new language will clarify that the waiver is for the requirement to aggregate and report on an SF 278 and that the Director, depending on the facts, may grant a waiver request for each particular gift.

Matters of Regulatory Procedure

Executive Order 12866

In promulgating these final rule amendments, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866,

Regulatory Planning and Review. These amendments have not been reviewed by the Office of Management and Budget under that Executive order, since they are not deemed "significant" thereunder.

Executive Order 12988

As Deputy Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Regulatory Flexibility Act

As Deputy Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rulemaking will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal executive branch departments and agencies and certain of their employees who file SF 278 reports.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply, because this rulemaking does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 2634

Certificates of divestiture, Conflict of interests, Government employees, Penalties, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: September 9, 1999.

F. Gary Davis,

Deputy Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2634 as follows:

PART 2634—EXECUTIVE BRANCH FINANCIAL DISCLOSURE, QUALIFIED TRUSTS, AND CERTIFICATES OF DIVESTITURE

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101-410, 104 Stat. 890, 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104-134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

2. Section 2634.304 is amended by:

a. Revising the introductory text of paragraph (f)(1);

- b. Revising paragraph (f)(1)(i);
- c. Adding an Example after paragraph (f)(1)(ii);
- d. Revising paragraph (f)(2); and
- e. Revising paragraph (f)(3).

The revisions and addition read as follows:

§ 2634.304 Gifts and reimbursements.

* * * * *

(f) * * * (1) *In general.* In unusual cases, the value of a gift as defined in § 2634.105(h) need not be aggregated for reporting threshold purposes under this section by public filers, and therefore the gift need not be reported on an SF 278, if the Director of OGE receives a written request for and issues a waiver, after determining that:

- (i) Both the basis of the relationship between the grantor and the grantee and the motivation behind the gift are personal; and
- (ii) * * *

Example to paragraph (f)(1). i. The Secretary of Education and her spouse receive the following two wedding gifts:

- A. Gift 1—A crystal decanter valued at \$285 from the Secretary's former college roommate and lifelong friend, who is a real estate broker in Wyoming.
- B. Gift 2—A gift of a print valued at \$300 from a business partner of the spouse, who owns a catering company.

ii. Under these circumstances, the Director of OGE may grant a request for a waiver of the requirement to aggregate and report on an SF 278 each of these gifts.

(2) *Public disclosure of waiver request.* If approved in whole or in part, the cover letter requesting the waiver shall be subject to the public disclosure requirements in § 2634.603 of this part.

(3) *Procedure.* (i) A public filer seeking a waiver under this paragraph (f) shall submit a request to the Office of Government Ethics, through his agency. The request shall be made by a cover letter which identifies the filer and his position and which states that a waiver is requested under this section.

(ii) On an enclosure to the cover letter, the filer shall set forth:

- (A) The identity and occupation of the donor;

- (B) A statement that the relationship between the donor and the filer is personal in nature;

- (C) A statement that neither the donor nor any person or organization who employs the donor or whom the donor represents, conducts or seeks business with, engages in activities regulated by, or is directly affected by action taken by, the agency employing the filer. If the preceding statement cannot be made without qualification, the filer shall indicate those qualifications, along with a statement demonstrating that he plays

no role in any official action which might directly affect the donor or any organization for which the donor works or serves as a representative; and

(D) A brief description of the gift and the value of the gift.

(iii) With respect to the information required in paragraph (f)(3)(ii) of this section, if a gift has more than one donor, the filer shall provide the necessary information for each donor.

[FR Doc. 99-23930 Filed 9-13-99; 8:45 am]
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DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 97-006F]

RIN 0583-AC33

Addition of Mexico to the List of Countries Eligible to Export Poultry Products into the United States

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is adding Mexico to the list of countries eligible to export poultry products to the United States. Reviews of Mexico's laws, regulations, and other materials show that the requirements of its poultry processing system are equivalent to relevant provisions in the Poultry Products Inspection Act (PPIA) and its implementing regulations.

Only products processed from poultry slaughtered in federally inspected establishments in the United States or in establishments in other countries eligible to export poultry from certified slaughter establishments to the United States may be imported into the United States after processing in certified Mexican establishments. FSIS inspectors will reinspect poultry products exported from Mexico to the United States at U.S. ports of entry. This action enables certified poultry processing establishments in Mexico to export processed poultry products to the United States.

EFFECTIVE DATE: October 14, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Manis, Director, International Policy Development Division, Office of Policy, Program Development and Evaluation; (202) 720-6400.

SUPPLEMENTARY INFORMATION: