

§ 2634.309

5 CFR Ch. XVI (1-1-01 Edition)

thirty-one days before the date on which the report is filed.

(2) *Income.* For purposes of § 2634.302 of this subpart, the report shall include all income items specified by that section which are received or accrued during the period beginning on January 1 of the preceding calendar year and ending on the date on which the report is filed, except as otherwise provided by § 2634.606 relating to updated disclosure for nominees.

(3) *Liabilities.* For purposes of § 2634.305 of this subpart, the report shall include all liabilities specified by that section which are owed during the period beginning on January 1 of the preceding calendar year and ending fewer than thirty-one days before the date on which the report is filed.

(4) *Agreements and arrangements.* For purposes of § 2634.306 of this subpart, the report shall include only those agreements and arrangements which still exist at the time of filing.

(5) *Outside positions.* For purposes of § 2634.307 of this subpart, the report shall include all such positions held during the preceding two calendar years and the current calendar year up to the date of filing.

(6) *Certain sources of compensation.* Except in the case of the President, the Vice President, or a candidate referred to in § 2634.201(d), the report shall also identify the filer's sources of compensation which exceed \$5,000 during either of the preceding two calendar years or during the current calendar year up to the date of filing, and shall briefly describe the nature of the duties performed or services rendered by the reporting individual for each such source of compensation. Information need not be reported, however, which is considered confidential as a result of a privileged relationship, established by law, between the reporting individual and any person. The report also need not contain any information with respect to any person for whom services were provided by any firm or association of which the reporting individual was a member, partner, or employee, unless such individual was directly involved in the provision of such services.

Example A nominee who is a partner or employee of a law firm and who has worked on

a matter involving a client from which the firm received over \$5,000 in fees during a calendar year must report the name of the client only if the value of the services rendered by the nominee exceeded \$5,000. The name of the client would not normally be considered confidential.

(c) *Termination reports.* Each public financial disclosure report filed under § 2634.201(e) shall include, on the standard form prescribed by the Office of Government Ethics consistent with subpart F of this part and in accordance with instructions issued by that Office, a full and complete statement of the information required to be reported according to the provisions of subpart C of this part, for the period beginning on the last date covered by the most recent public financial disclosure report filed by the reporting individual under this part, or on January 1 of the preceding calendar year, whichever is later, and ending on the date on which the filer's employment terminates.

§ 2634.309 Spouses and dependent children.

(a) *Special disclosure rules.* Each report required by the provisions of either subpart B or subpart I of this part shall also include the following information with respect to the spouse or dependent children of the reporting individual:

(1) *Income.* For purposes of § 2634.302 of this subpart:

(i) With respect to a spouse, the source but not the amount of items of earned income (other than honoraria) which exceed \$1,000 from any one source; and if items of earned income are derived from a spouse's self-employment in a business or profession, the nature of the business or profession but not the amount of the earned income;

(ii) With respect to a spouse, the source, and for a public financial disclosure report the actual amount or value, of any honoraria received by or accrued to the spouse (or payments made or to be made to charity on the spouse's behalf in lieu of honoraria) which exceed \$200 from any one source, and the date on which the services were provided; and

(iii) With respect to a spouse or dependent child, the type and source, and

for a public financial disclosure report the amount or value (category or actual amount, in accordance with § 2634.302 of this subpart), of all other income exceeding \$200 from any one source, such as investment income from interests in property (if the property itself is reportable according to § 2634.301 of this subpart).

Example 1. The spouse of a filer is employed as a teller at Bank X and earns \$23,000 per year. The report must disclose that the spouse is employed by Bank X. The amount of the spouse's earnings need not be disclosed, either on a public or confidential financial disclosure report.

Example 2. The spouse of a reporting individual is self-employed as a pediatrician. The report must disclose that he is a physician, but need not disclose the amount of income, either on a public or confidential financial disclosure report.

(2) *Gifts and reimbursements.* For purposes of § 2634.304 of this subpart, gifts and reimbursements received by a spouse or dependent child which are not received totally independent of their relationship to the filer.

(3) *Interests in property, transactions, and liabilities.* For purposes of §§ 2634.301, 2634.303 (applicable only to public filers), and 2634.305 of this subpart, all information concerning property interests, transactions, or liabilities referred to by those sections of a spouse or dependent child, unless the following three conditions are satisfied:

(i) The filer certifies that the item represents the spouse's or dependent child's sole financial interest or responsibility, and that the filer has no specific knowledge regarding that item;

(ii) The item is not in any way, past or present, derived from the income, assets or activities of the filer; and

(iii) The filer neither derives, nor expects to derive, any financial or economic benefit from the item.

NOTE: One who prepares a joint tax return with his spouse will normally derive a financial or economic benefit from assets held by the spouse, and will also be charged with knowledge of such items; therefore he could not avail himself of this exception. Likewise, a trust for the education of one's minor child normally will convey a financial benefit to the parent. If so, the assets of the trust would be reportable on a financial disclosure statement.

(b) *Exception.* For reports filed as a new entrant, nominee, or candidate under § 2634.201(b), (c), or (d), or as a new entrant under § 2634.908(b), no information regarding gifts and reimbursements or transactions is required for a spouse or dependent child.

(c) *Divorce and separation.* A reporting individual need not report any information about:

(1) A spouse living separate and apart from the reporting individual with the intention of terminating the marriage or providing for permanent separation;

(2) A former spouse or a spouse from whom the reporting individual is permanently separated; or

(3) Any income or obligations of the reporting individual arising from dissolution of the reporting individual's marriage or permanent separation from a spouse.

§ 2634.310 Trusts, estates, and investment funds.

(a) *In general.* (1) Except as otherwise provided in this section, each financial disclosure report shall include the information required by this subpart or subpart I of this part about the holdings of and income from the holdings of any trust, estate, investment fund or other financial arrangement from which income is received by, or with respect to which a beneficial interest in principal or income is held by, the filer, his spouse, or dependent child.

(2) No information, however, is required about a nonvested beneficial interest in the principal or income of an estate or trust. A vested interest is a present right or title to property, which carries with it an existing right of alienation, even though the right to possession or enjoyment may be postponed to some uncertain time in the future. This includes a future interest when one has a right, defeasible or indefeasible, to the immediate possession or enjoyment of the property, upon the ceasing of another's interest. Accordingly, it is not the uncertainty of the time of enjoyment in the future, but the uncertainty of the right of enjoyment (title and alienation), which differentiates a "vested" and a "non-vested" interest.