Example 3. An official has an ownership interest in a fast-food restaurant, from which she receives $10,000 in annual income. She must specify on her financial disclosure report the type of income, such as partnership distributive share or gross business income, and if she is a public filer indicate the actual amount of such income. (Additionally, she must describe the business and categorize its asset value, pursuant to § 2634.301 of this subpart).

[57 FR 11808, Apr. 7, 1992; 57 FR 21854, May 22, 1992, as amended at 63 FR 43068, Aug. 12, 1998; 65 FR 69656, Nov. 20, 2000]

EFFECTIVE DATE NOTE: At 63 FR 43068, Aug. 12, 1998, in § 2634.302, paragragh (a)(2) was revised and immediately stayed indefinitely.

§ 2634.303 Purchases, sales, and exchanges.

(a) *In general.* Except as indicated in § 2634.308(b) of this subpart, each public financial disclosure report filed pursuant to subpart B of this part shall include a brief description, the date and value (using the categories of value in § 2634.301(d) of this subpart) of any purchase, sale, or exchange by the filer during the reporting period, in which the amount involved in the transaction exceeds $1,000:

(1) Of real property, other than a personal residence of the filer or spouse, as defined in § 2634.105(l) of this part; and

(2) Of stocks, bonds, commodity futures, mutual fund shares, and other forms of securities.

(b) *Exceptions.* (1) Any transaction solely by and between the reporting individual, his spouse, and dependent children need not be reported under paragraph (a) of this section.

(2) Transactions involving Treasury bills, notes, and bonds; money market mutual funds or accounts; and personal savings accounts (as defined in § 2634.301(c)(2) of this subpart) need not be reported when occurring at rates, terms, and conditions available generally to members of the public. Likewise, transactions involving portfolio holdings of trusts and investment funds described in § 2634.310 (b) and (c) of this subpart need not be reported.

(3) Any transaction which occurred at a time when the reporting individual was not a Federal Government officer or employee need not be reported under paragraph (a) of this section.

Example 1. An official sells her personal residence in Virginia for $100,000 and purchases a personal residence in the District of Columbia for $200,000. She need not report the sale of the Virginia residence or the purchase of the D.C. residence.

Example 2. An official sells his beach home in Maryland for $50,000. Because he has rented it out for one month every summer, it does not qualify as a personal residence. He must disclose the sale under this section and any capital gain over $200 realized on the sale under § 2634.302 of this subpart.

Example 3. An official sells a ranch to his dependent daughter. The official need not report the sale because it is a transaction between the reporting individual and a dependent child; however, any capital gain, except for that portion attributable to a personal residence, is required to be reported under § 2634.302 of this subpart.

Example 4. An official sells an apartment building and realizes a loss of $100,000. He must report the sale of the building if the sale price of the property exceeds $1,000; however, he need not report anything under § 2634.302 of this subpart, as the sale did not result in a capital gain.

[57 FR 11808, Apr. 7, 1992; 57 FR 21854, May 22, 1992]

§ 2634.304 Gifts and reimbursements.

(a) *Gifts.* Except as indicated in §§ 2634.308(b) and 2634.907(a), each financial disclosure report filed pursuant to this part, whether public or confidential, shall contain the identity of the source, a brief description, and in the case of public financial disclosure reports the value, of all gifts aggregating more than $260 in value which are received by the filer during the reporting period from any one source. For in-kind travel-related gifts, include a travel itinerary, dates, and nature of expenses provided.

(b) *Reimbursements.* Except as indicated in §§ 2634.308(b) and 2634.907(a), each financial disclosure report filed pursuant to this part, whether public or confidential, shall contain the identity of the source, a brief description (including a travel itinerary, dates, and the nature of expenses provided), and in the case of public financial disclosure reports the value, of any travel-related reimbursements aggregating more than $260 in value, which are received by the filer during the reporting period from any one source.

(c) *Exclusions.* Reports need not contain any information about gifts and

reimbursements to which the provisions of this section would otherwise apply which are received from relatives (see § 2634.105(o)) or during a period in which the filer was not an officer or employee of the Federal Government. Additionally, any food, lodging, or entertainment received as ''personal hospitality of any individual,'' as defined in § 2634.105(k), need not be reported. See also exclusions specified in the definitions of gift and reimbursement, at § 2634.105(h) and (n).

(d) *Aggregation exception*. Any gift or reimbursement with a fair market value of $104 or less need not be aggregated for purposes of the reporting rules of this section. However, the acceptance of gifts, whether or not reportable, is subject to the restrictions imposed by Executive Order 12674, as modified by Executive Order 12731, and the implementing regulations on standards of ethical conduct.

Example 1. An official accepts a print, a pen and pencil set, and a letter opener from a community service organization he has worked with solely in his private capacity. He determines, in accordance with paragraph (e) of this section, that these gifts are valued as follows:

Gift 1—Print: $190
Gift 2—Pen and pencil set: $105
Gift 3—Letter opener: $20

The official must disclose Gifts 1 and 2, since together they aggregate more than $260 in value from the same source. Gift 3 need not be aggregated, because its value does not exceed $104.

Example 2. An official receives the following gifts from a single source:

1. Dinner for two at a local restaurant—$120.
2. Round-trip taxi fare to meet donor at the restaurant—$25.
3. Dinner at donor's city residence—(value uncertain).
4. Round-trip airline transportation and hotel accommodations to visit Epcot Center in Florida–$400.
5. Weekend at donor's country home, including duck hunting and tennis match—(value uncertain).

The official need only disclose Gift 4. Gift 1 falls within the exception in § 2634.105(h) for food and beverages not consumed in connection with a gift of overnight lodging. Gifts 3 and 5 need not be disclosed because they fall within the exception for personal hospitality of an individual. Gift 2 need not be aggregated and reported, because its value does not exceed $104.

Example 3. An official receives free tickets from an outside source for himself and his spouse to attend an awards banquet at a local club. The value of each ticket is $150. Even though this is a gift which exceeds the more than $260 threshold amount for disclosure, the official need not report it, because of the exception in § 2634.105(h) for food and beverages not consumed in connection with a gift of overnight lodging.

NOTE: Prior to accepting this gift of tickets, the individual should consult ethics officials at his agency to determine whether standards of conduct rules will permit acceptance, depending on whether or not the donor is a prohibited source and the exact nature of the event.

Example 4. An official is asked to speak at an out-of-town meeting on a matter which is unrelated to her official duties and her agency. The round-trip airfare exceeds $260. If the official pays for the ticket and is then reimbursed by the organization to which she spoke, she must disclose this reimbursement under paragraph (b) of this section. If the organization simply provided the ticket, that must be disclosed as a gift under paragraph (a) of this section.

(e) *Valuation of gifts and reimbursements*. The value to be assigned to a gift or reimbursement is its fair market value. For most reimbursements, this will be the amount actually received. For gifts, the value should be determined in one of the following manners:

(1) If the gift has been newly purchased or is readily available in the market, the value shall be its retail price. The filer need not contact the donor, but may contact a retail establishment selling similar items to determine the present cost in the market.

(2) If the item is not readily available in the market, such as a piece of art, a handmade item, or an antique, the filer may make a good faith estimate of the value of the item.

(3) The term readily available in the market means that an item generally is available for retail purchase in the metropolitan area nearest to the official's residence.

Example. Items such as a pen and pencil set, letter opener, leather case or engraved pen are generally available in the market and can be determined by contacting stores which sell like items and ascertaining the retail price of each.

NOTE: The market value of a ticket entitling the holder to attend an event which includes food, refreshments, entertainment or other benefits is the face value of the ticket,

which may exceed the actual cost of the food and other benefits. The value of food and beverages may be excludable under § 2634.105(h)(4), if applicable, by making a good faith estimate, or by determining their actual cost from the caterer, restaurant, or similar source.

(f) *Waiver rule in the case of certain gifts*—(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) No countervailing public purpose requires public disclosure of the nature, source, and value of the gift.

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.

[57 FR 11808, Apr. 7, 1992; 57 FR 62605, Dec. 31, 1992, as amended at 63 FR 69992, Dec. 18, 1998; 64 FR 49640, Sept. 14, 1999; 65 FR 69656, Nov. 20, 2000]

§ 2634.305 Liabilities.

(a) *In general.* Each financial disclosure report filed pursuant to this part, whether public or confidential, shall identify and include a brief description of the filer's liabilities over $10,000 owed to any creditor at any time during the reporting period, and the name of the creditors to whom such liabilities are owed. For public financial disclosure reports, the report shall designate the category of value of the liabilities in accordance with § 2634.301(d) of this subpart, using the greatest amount owed to the creditor during the period.

(b) *Exceptions.* The following are not required to be reported under paragraph (a) of this section:

(1) Personal liabilities owed to a spouse or to the parent, brother, sister, or child of the filer, spouse, or dependent child;

(2) Any mortgage secured by a personal residence of the filer or his spouse;

(3) Any loan secured by a personal motor vehicle, household furniture, or appliances, provided that the loan does not exceed the purchase price of the item which secures it; and