

## HOLDOVERS IN OFFICE MUST FILE A PERSONAL FINANCIAL STATEMENT

The reporting requirement, which is triggered by any service as a state officer between January 1 and April 30, applies to all state officers including those "holding over" in office, unless the exemption described at the end of this section applies.

The holdover provision, set out in article XVI, section 17, of the Texas Constitution, states: "All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified." The purpose of that provision is to enable government to continue to function despite vacancies on state agency boards or commissions. This sometimes generates confusion because a person may still be considered a state officer even though he or she has resigned or the term of office has expired.

Thus if you resign or your term expires before January 1, you will nonetheless have to file a financial statement if your successor was not appointed and duly qualified before January 1. Assume, for example, that you resign from a state board on October 3, 2005, but your replacement is not appointed until February 1, 2006. You will be required to file the report due April 30, 2006. You will not be required to file in 2007.

**Even if you have resigned or your term has expired, you may be required to file a personal financial statement as a "holdover" in office.**

**Exemption:** If you are an appointed officer, as defined by section 572.002 of the Government Code, you are not required to file a personal financial statement if the following criteria are met before January 1 of the year the statement is due: (1) your term expired, you resigned, your agency was abolished, or your agency functions were transferred to another agency; and (2) you ceased to participate in the state agency's functions. If your term expired or if you resigned, you are required to provide written notice of your intent to not participate in the agency's functions to the Office of the Governor and to the Texas Ethics Commission.

### Texas Ethics Commission

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# Helpful Hints For Filing Your Personal Financial Statement



### A GUIDE FOR

- ✓ All elected and appointed state officers
- ✓ Members of the boards of river authorities
- ✓ Executive heads of state agencies
- ✓ State political party chairs

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*Revised April 26, 2011*

## REQUIREMENT TO FILE & FILING DEADLINES

Any service as a state officer between January 1 and April 30 in a calendar year triggers the requirement to file a personal financial statement with the Ethics Commission. The **REGULAR FILING DEADLINE IS APRIL 30** each year (or the next business day if the 30th falls on a weekend or holiday), *unless* one of the alternate filing deadlines listed below applies.

### Alternate Filing Deadlines for Certain State Officers in the 1st Year of Appointment

1. An appointed salaried officer, appointee filling a vacancy in elective office, or appointee of a major state agency must file on the earliest of the following dates: (1) within 30 days of appointment or qualification, or (2) before the first committee hearing on confirmation if senate confirmation is required.
2. The executive head of a state agency—who is not an appointed officer— must file within 45 days after assuming duties.

### Alternate Filing Deadlines for Candidates for Elective Office

1. A candidate for office as an elected officer must file a financial statement within 40 days after the regular deadline for filing an application for a place on the ballot in the March primary election.
2. If the date for filing for ballot access or filing a declaration of write-in candidacy falls after the regular filing deadline for candidates in the primary election, the deadline may vary. Please contact the Ethics Commission.
3. A candidate for office as an elected officer in a special election must file 5 days before the election.

*NOTE: A financial statement must be filed each year. The statement must be filed with the Ethics Commission, not the Governor or your agency, to be considered timely filed. If you must file in more than one capacity—e.g. you serve on more than one board—only one financial statement must be filed. Duplicate statements covering the same calendar year are never required.*

## INFORMATION TO BE REPORTED

**Previous Year's Activity:** The financial statement discloses information about your financial activity for the preceding year. For example, if you are required to file in April 2006, you will report the financial activity that occurred during calendar year 2005. This information must be provided even if you were not yet a state officer during the previous year.

**New Appointees:** For a newly appointed officer, the period covered by the first required personal financial statement is determined by the date the officer is appointed to the office. A new appointee's first personal financial statement covers the entire calendar year *preceding the year of appointment* rather than preceding the year the statement is due. For example, a person appointed to serve on a board effective December 15, 2008, is required to file a personal financial statement due January 14, 2009. This personal financial statement covers activity occurring between and including January 1 and December 31, 2007.

**Family:** You must include the financial activity of your spouse and dependent children if you had authority to exercise control over that activity. If you did not have **actual control** over the activity, it is not required to be reported. Family information does not need to be provided when the forms specifically ask for information about the "state officer" only.

**Gifts:** As a state officer, you should be aware that some gifts are regulated or restricted by the lobby statute and the Penal Code. "Gift," for purposes of financial disclosure, is a broader category than "gift" for purposes of the other laws. For financial disclosure reporting purposes, it encompasses any type of gift, including food and beverages. You must report all gifts you received worth more than \$250. For personal financial statements filed on or after January 1, 2008, the description of a gift of cash or a cash equivalent, such as a negotiable instrument or gift certificate, must include a statement of the value of the gift. There are exceptions to this reporting requirement for a gift from a relative, political contributions that are reported under the Election Code, or a gift from a lobbyist who reports the gift on the lobbyist's activity report. If you are unsure whether a gift is from (or reported by) a lobbyist, report it.

## DEADLINE EXTENSIONS, FINES & WAIVERS

### Deadline Extensions

If your financial statement is due on the regular (April 30) filing deadline, you may ask the Ethics Commission for a 60-day extension to file the statement. The commission can only grant an extension if it is requested *before* the filing deadline. Only one extension may be given except for good cause shown. Extensions may not be granted for alternate filing deadlines.

### Fines

A \$500 penalty is automatically assessed for the late filing of a financial statement, and other sanctions may accrue as the result of a sworn complaint. If a filer fails to file a report or pay a penalty, the matter is referred to the attorney general. Criminal penalties may also apply.

### Waivers

An administrative waiver of a fine may be granted by the executive director of the Ethics Commission if your report is late because:

1. you, a member of your family, or the person who usually prepares your report was ill,
2. you are not an elected official, a candidate for election, or a salaried officer, this was your first late financial statement, and you filed within 30 days of receiving a late notice,
3. you relied on incorrect advice from the Ethics Commission, or
4. the Ethics Commission made an administrative error.

Any other request for waiver must be considered by the members of the commission itself.

*NOTE: Incorrect advice from your agency is not grounds for an administrative waiver.*