

## 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, 2015, but your replacement is not appointed until February 1, 2016. You will be required to file the report due April 30, 2016. You will not be required to file in 2017.

**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.

## 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

A filer may request the executive director of the Ethics Commission to administratively waive or reduce a late fine under sections 18.23, 18.24, 18.25 and 18.26 of the Texas Ethics Commission Rules. Any other request or appeal 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.*

### 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

*Revised June 13, 2017*

## REQUIREMENT TO FILE & FILING DEADLINES

**Elected Officeholders and Candidates for Elected Office:** Under state law, a personal financial statement (PFS) filed with the Texas Ethics Commission by an elected officeholder, a candidate for an elected office, or a state party chair must be filed electronically using the commission's online filing application.

**Individuals Appointed to Office:** Under new state law effective May 29, 2017, a PFS filed with the Texas Ethics Commission by an individual appointed to office may be filed electronically using the commission's online filing application or on a paper Form PFS. For more information, go to [www.ethics.state.tx.us/filinginfo/pfsforms\\_insAppoint.html](http://www.ethics.state.tx.us/filinginfo/pfsforms_insAppoint.html) on the Commission's website. **Note:** A person who is required to file a PFS with the Ethics Commission as a *candidate* for office or as an *elected* official does not have the option to file a PFS on paper.

**Local Filers:** If you are filing a PFS with a local filing authority, you must ensure that the PFS is in the proper format required by the local filing authority.

### Filing Deadlines

Any service as a state officer between and including 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 for purposes of determining the filing deadline—must file within 45 days after assuming duties.

#### Alternate Filing Deadlines for Candidates for Elective Office

1. An individual who is a partisan or independent candidate for an office as an elected officer shall file the financial statement not later than the later of the 60th day after the date of the regular filing deadline for an application for a place on the ballot in the general primary election, or February 12.
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.

*NOTE: A financial statement must be filed each year. The statement must be filed with the Ethics Commission, not with 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 2017, you will report the financial activity that occurred during calendar year 2016. This information must be provided even if you were not yet a state officer during the previous year. You are required to disclose financial activity in which you have an ownership interest (e.g., community property). You are also required to disclose the separate financial activity (e.g., separate property) of your spouse or a dependent child if you had actual control over that financial activity, notwithstanding a partition agreement. See Texas Ethics Commission Rule § 40.2.

**New Appointees:** An appointed salaried officer, appointee filling a vacancy in elective office, appointee of a major state agency, or the executive head of a state agency must file a personal financial statement during the first year of his or her appointment. For these newly appointed officers, 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 the board of a major state agency effective December 15, 2016, is required to file a personal financial statement due January 14, 2017. This personal financial statement covers activity occurring between and including January 1 and December 31, 2015. Other new appointees, such as appointees to non-major state agencies, will file a personal financial statement on the April 30 deadline. The personal financial statement will cover activity for the entire calendar year preceding the year the statement is due.

**Family:** You are required to disclose financial activity in which you have an ownership interest (e.g., community property). You are also required to disclose the separate financial activity (e.g., separate property) of your spouse or a dependent child if you had actual control over that financial activity, notwithstanding a partition agreement. See Texas Ethics Commission Rule § 40.2.

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.