

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 98-EC-003 Issued May 22, 1998

The Arkansas Ethics Commission has been asked to address a number of issues concerning the reporting requirements for a statement of financial interest ("SFI") filed pursuant to Ark. Code Ann. § 21-8-701.

ISSUE #1:

Whether the term "income" as used in Section 3 of the SFI includes reimbursements for actual expenses from any source on behalf of which the officeholder or official has incurred actual expenses?

ANSWER:

This is an extremely broad question which cannot be answered conclusively without reference to specific facts. It is the Commission's position, however, that in the situation where an employer is reimbursing an employee for legitimate food, lodging and travel expenses actually incurred by the employee in connection with his or her employment, the reimbursement would not be reportable as income on a SFI. Any other situations would need to be reviewed on a case by case basis.

ISSUE #2:

Whether health insurance benefits or reimbursements are reportable on the SFI and, if so, where?

ANSWER:

Health insurance provided by one's employer is in the nature of a benefit and, after due consideration, it is the Commission's position that neither such insurance nor any reimbursements paid by the insurer for health care expenses actually incurred by the employee would be required to be reported on a SFI. Because questions of this type are decided on a case by case basis, this answer is limited solely to health insurance an employee receives from his or her employer.

ISSUE #3:

Whether participation, by an employee, in a non-contributory retirement plan sponsored by an employer is reportable as a business or holding in Section 4 of the SFI?

ANSWER:

Yes, provided the employee's retirement benefits are vested and the fair market value of those benefits is more than one thousand dollars (\$1,000).

ISSUE #4:

Whether participation, by an employee, in a contributory retirement plan such as a 401(k) is reportable as a business or holding in section 4 of the SFI?

ANSWER:

Yes, provided the fair market value of the employee's retirement account is more than one thousand dollars (\$1,000).

ISSUE # 5:

Whether food, lodging, or travel to (the value of which exceeds the reporting threshold) furnished to a public servant to attend an event which does not bear a relationship to the public servant's office and is not for his or her personal benefit is required to be reported as either a gift on Section 8 of the SFI or as nongovernmental sources of payment on Section 9 of the SFI?

ANSWER:

If a public servant is furnished food, lodging, or travel which does not bear a relationship to the public servant's office, same would be reportable as a gift on Section 8 of the SFI provided the amount is \$100.00 or more.

ISSUE # 6:

Whether items such as food, clothing and tickets which are presented to the "office" of a public official and distributed to members of the official's staff are required to be reported by the official as either a gift under Section 8 of the SFI or a nongovernmental source of payment on Section 9 of the SFI and, if so, does it make a difference that the gift is distributed among the members of the official staff?

ANSWER:

Items given to the "office" of a public official are tantamount to gifts to the public official who holds that office and are reportable on Section 8 of the SFI. The fact that the public official "distributed" the items in question to members of his or her staff would not make a difference.

ISSUE # 7:

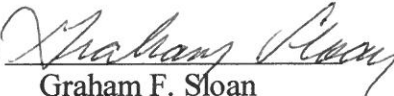
Whether members of a public official's staff who receive items such as food, clothing and tickets presented to the "office" of the public official and are otherwise required to file a SFI must report such items as either a gift under Section 8 of the SFI or a nongovernmental source of payment under Section 9 of the SFI?

ANSWER:

If a public official distributes items such as food, clothing, and tickets to a member of his or her staff who are otherwise required to file a SFI, then the receipt of the item(s) in question would be reportable by the staff member as a gift on Section 8 of the SFI provided the value of the item(s) received by the staff member is \$100.00 or more.

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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