

financial interest, he remains subject to any restrictions imposed by this subpart.

(e) *Eligibility for special tax treatment.* An employee required to sell or otherwise divest a financial interest may be eligible to defer the tax consequences of divestiture under subpart J of part 2634 of this chapter.

[57 FR 35042, Aug. 7, 1992, as amended at 59 FR 4780, Feb. 2, 1994; 60 FR 6391, Feb. 2, 1995; 60 FR 66858, Dec. 27, 1995; 61 FR 40951, Aug. 7, 1996; 62 FR 48748, Sept. 17, 1996]

### Subpart E—Impartiality in Performing Official Duties

#### § 2635.501 Overview.

(a) This subpart contains two provisions intended to ensure that an employee takes appropriate steps to avoid an appearance of loss of impartiality in the performance of his official duties. Under § 2635.502, unless he receives prior authorization, an employee should not participate in a particular matter involving specific parties which he knows is likely to affect the financial interests of a member of his household, or in which he knows a person with whom he has a covered relationship is or represents a party, if he determines that a reasonable person with knowledge of the relevant facts would question his impartiality in the matter. An employee who is concerned that other circumstances would raise a question regarding his impartiality should use the process described in § 2635.502 to determine whether he should or should not participate in a particular matter.

(b) Under § 2635.503, an employee who has received an extraordinary severance or other payment from a former employer prior to entering Government service is subject, in the absence of a waiver, to a two-year period of disqualification from participation in particular matters in which that former employer is or represents a party.

NOTE: Questions regarding impartiality necessarily arise when an employee's official duties impact upon the employee's own financial interests or those of certain other persons, such as the employee's spouse or minor child. An employee is prohibited by criminal statute, 18 U.S.C. 208(a), from participating personally and substantially in an official capacity in any particular matter in

which, to his knowledge, he, his spouse, general partner or minor child has a financial interest, if the particular matter will have a direct and predictable effect on that interest. The statutory prohibition also extends to an employee's participation in a particular matter in which, to his knowledge, an organization in which the employee is serving as officer, director, trustee, general partner or employee, or with whom he is negotiating or has an arrangement concerning prospective employment has a financial interest. Where the employee's participation in a particular matter would affect any one of these financial interests, the standards set forth in subparts D or F of this part apply and only a statutory waiver or exemption, as described in §§ 2635.402(d) and 2635.605(a), will enable the employee to participate in that matter. The authorization procedures in § 2635.502(d) may not be used to authorize an employee's participation in any such matter. Where the employee complies with all terms of the waiver, the granting of a statutory waiver will be deemed to constitute a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of agency programs and operations. Similarly, where the employee meets all prerequisites for the application of one of the exemptions set forth in subpart B of part 2640 of this chapter, that also constitutes a determination that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of agency programs and operations.

[57 FR 35042, Aug. 7, 1992, as amended at 62 FR 48748, Sept. 17, 1997]

#### § 2635.502 Personal and business relationships.

(a) *Consideration of appearances by the employee.* Where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his household, or knows that a person with whom he has a covered relationship is or represents a party to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter, the employee should not participate in the matter unless he has informed the agency designee of the appearance problem and received authorization from the agency designee in accordance with paragraph (d) of this section.