

A WORD ABOUT ETHICS

SELLING ASSETS TO AVOID A CONFLICT OF INTEREST

SELLING ASSETS

When must an employee sell an asset?

○ When holding the asset will interfere with the employee's ability to perform official duties. A Federal employee may not work on any matter affecting a company in which the employee (or the employee's spouse or dependant child) owns stock, unless it is publicly-traded and less than \$15,000. If an employee is required to work on a matter affecting a company, the employee may be required to sell stock held in that company.

Can economic costs from a sale be reduced?

○ yes, an employees may defer Federal taxes on capital gains received.

How are taxes deferred?

○ To defer taxes an employee:

first: gets a Certificate of Divestiture

then: within 3 months, divests the conflicting interest

then: within 60 days, reinvests the proceeds into:

- U.S. Government securities or
- diversified investment funds; taxes are due when these are sold.

CERTIFICATES OF DIVESTITURE

What is a Certificate of Divestiture?

○ A Certificate of Divestiture is confirmation by the U.S. Office of Government Ethics (OGE) that an asset was sold to avoid a conflict of interest. It permits deferral of Federal taxes on capital gains from the sale, if certain conditions are met. An employee may seek a certificate through the Ethics Law and Programs Division of the Office of the General Counsel.

Are Certificates of Divestiture available for all sales that result from a conflict of interest?

○ No. A Certificate of Divestiture *will not*:

- apply to a sale made before the certificate was issued and *will not*
- be issued for an asset that created a conflict of interest when originally obtained by the employee.

Who can provide further tax advice?

○ The Internal Revenue Service or a tax advisor can provide further guidance on the applicable tax law (Section 1043 of the Internal Revenue Code).

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