

## CERTIFICATES OF DIVESTITURE

As an executive branch employee, your agency or the Office of Government Ethics (OGE) can direct you to sell, or otherwise divest, an asset in order to avoid a conflict of interest or the appearance of one. If selling the asset will result in a capital gain, you may be eligible for a Certificate of Divestiture to offset the tax burden of complying with the government's conflict of interest requirements. (Note, however, that a special government employee is not eligible.)

You, your spouse, and your dependent or minor child are eligible to request a Certificate of Divestiture. A trustee is also eligible when the asset is held in a trust, except in certain cases in which ineligible persons are also beneficiaries of the trust. The person requesting a Certificate of Divestiture (*i.e.*, you, your spouse, your dependent or minor child, or a trustee) must commit in writing to divesting the asset even if a Certificate of Divestiture is not issued.

*A Certificate of Divestiture allows you to defer the payment of capital gains tax by reinvesting the proceeds of a sale into "permitted property."*

To request a Certificate of Divestiture, contact your agency ethics official. If your agency supports the request, your agency ethics official will assemble the necessary documents and submit the request to OGE. OGE will then review the submission to determine whether (1) the request meets applicable procedural requirements and (2) whether divestiture is reasonably necessary to avoid a conflict of interest. OGE will either issue a Certificate of Divestiture to you through your agency ethics official or notify your agency ethics official that your request has been denied.

Do not sell the asset until your agency ethics official provides you with the Certificate of Divestiture or notifies you that OGE has denied your request. A Certificate of Divestiture is valid only if obtained *before* selling an asset. Within 60 days of the sale, you must reinvest the proceeds of the sale in "permitted property." Permitted property is limited to U.S. government obligations (*i.e.*, Treasuries), diversified mutual funds, and diversified exchange-traded funds.

For this purpose, "diversified" means the fund does not have a stated policy of concentrating in any industry, business, single country other than the U.S., or the bonds of a single state within the U.S.

When you file your taxes, complete part IV of IRS Form 8824 to defer payment of capital gains on the sale of the asset pursuant to a Certificate of Divestiture. You will need to pay the deferred capital gains later when you sell the permitted property.

Contact your agency ethics official for more information about Certificates of Divestiture. Note that OGE and your agency ethics official are not able to

provide tax advice. Please consult your own tax advisor instead if you need guidance as to tax matters. Your tax advisor should consult 26 U.S.C. § 1043 and 5 C.F.R. part 2634, subpart J.

*A Certificate of Divestiture is not an employee benefit; it is designed to reduce the financial burden of complying with ethics laws.*