

公職人員 財產申報法修正重點

Highlights on Amendment to Act on Property-Declaration by Public Servants

◎資料整理/政風處

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立法院各黨團於96年1月17日，經朝野協商後通過「公職人員財產申報法修正草案」，同(96)年3月5日立法院第6屆第5會期院會完成三讀程序，樹立我國政府清廉執政之重大里程碑。

公職人員財產申報法自民國82年9月1日施行迄今，已超過14年，為配合政府貫徹防貪、肅貪、反貪之決心，行政院近年來積極推動公職人員財產申報法之修法工作，而財產申報法修正後之重點如下。

As of Jan. 17, 2007, all parties of Legislative Yuan ratified “Draft of Amendment to Act on Property-Declaration by Public Servants” after negotiation between the ruling party and opposition party. On Mar. 05 the same year, within Phase 5, 6th term Legislative Yuan, a great milestone for “clear governance” of Taiwan’s government has been certain following three readings.

It has been 14 years since the Act on Property-Declaration by Public Servants was effective on Sep. 01, 1993. To reflect anti-corruption policy, the Executive Yuan has been promoting amendment to the act positively. The amendment has several mainpoints as follows.

一、擴大應申報財產人員(法定申報義務人)範圍(修正條文第2條第1項第1款至第12款)：

款項	修正前	修正後	說明
第3款	政務官	政務人員	配合「政務人員退職撫恤條例」修正名詞
第5款	簡任第十職等或相當職等以上之各級政府機關首長	各級政府機關之 <u>首長、副首長</u>	1.取消首長職等限制。 2.增列副首長。 * 機關認定標準： A.依組織法設立。 B.可獨立對外行文(有印信)。 C.有獨立預算(分預算)。
第5款	無	<u>職務列簡任第十職等以上之幕僚長、主管</u>	1.幕僚長定義：「中央行政機關組織基準法」中有提到「一級機關置幕僚長，稱秘書長，列政務職務」，惟實務上幕僚長尚待定義。 2.例如：主任秘書、秘書長。
第5款	公營事業機構相當簡任第十職等以上首長及一級主管	公營事業總、分支機構之 <u>首長、副首長</u> 及相當簡任第十職等以上之 <u>主管</u>	1.總、分支機構之 <u>首長、副首長</u> 不分職等均須申報。例如：銀行經理。 2.取消首長職等限制。 3.增列副首長。 4.主管修改為相當簡任第十職等以上者均須申報，不以一級主管為限。
第5款	無	<u>代表政府或公股出任私法人之董事及監察人</u>	
第6款	公立各級學校校長	各級公立學校之 <u>校長、副校長</u>	增列副校長須申報。
第6款	無	其設有附屬機構者該機構之 <u>首長、副首長</u> 。	例如：教學單位附設之醫院、林場、牧場、實習旅館.....等。
第7款	少將編階以上軍事單位 <u>首長</u>	軍事單位上校編階以上之各級 <u>主官、副主官及主管</u>	擴大為上校編階以上之各級主官、副主官及主管均須申報。
第8款	依法選舉產生之鄉(鎮、市)級以上政府機關首長	依公職人員選舉罷免法選舉產生之鄉(鎮、市)級以上政府機關 <u>首長</u>	
第9款	縣(市)級以上各級民意機關民意代表	各級民意機關民意代表	取消縣(市)級以上民意機關代表之限制，鄉鎮民意機關代表也須申報。
第10款	法官、檢察官	法官、檢察官、 <u>行政執行官、軍法官</u>	
第11款	挪至修正條文第12款	<u>政風及軍事監察主管人員</u>	增列政風及軍事監察主管人員
第12款	警政、司法調查、稅務、關務、地政主計、營建、都計證管、採購之縣(市)級以上政府主管人員	<u>司法警察、稅務、關務地政、會計、審計、建築管理、工商登記、都市計畫、金融監督暨管理、公產管理、金融授信、商品、檢驗商標、專利、公路監理、環保稽查、採購業務等之主管人員</u> ；其範圍由法務部會商各該中央主管機關定之；其屬國防及軍事單位之人員，由國防部定之	各項業務人員之定義、範圍，由法務部與各主管部會另行會商後公告。
第13款	原第12款後段： 其他職務性質特殊經主管院會同考試院核定有申報財產必要之人員	其他職務性質特殊經 <u>主管府、院</u> 核定有申報財產必要之人員。	

I. Broadening range of taxpayer (Amendment to Act on Property-Declaration by Public Servants § 2.1.1~12)

Article	Pre-amendment	After amendment	description
§ 2.1.3	Political officer	Political appointee	The change is to reflect the alternative term in the amendment
§ 2.1.5	Senior heads of or above 10-grade at all levels of governmental organizations	Heads and deputy heads at all levels of governmental organizations	1. Eliminating the limit of grade 2. Requirement to the deputy heads is added. *criterion for organizations: A. The organization is established pursuant to the Organization Act. B. The organization can issue official documents (with seals) independently. C. The organization owns independent budget.
§ 2.1.5	none	Senior heads of staff directors of or above 10-grade	1. Definition of staff head: In pursuant to the Standard Act of Administrative Organization of Central Government, the head of staff at 1-grade organization refers to secretary-general and listed as political appointee. However, the definition shall be made depending upon reality. 2. For instance, Chief secretary, secretary-general
§ 2.1.5	Heads and level 1 director at state-owned enterprises equal to or above senior 10-grade heads.	Heads and deputy heads at state-owned enterprises or the affiliates equal to or above senior 10-grade heads.	1. In spite of the grade, heads and deputy heads at state-owned enterprises and the affiliates are required to file. For instance, managers of state-owned banks are included. 2. Eliminating limit of grade. 3. Adding deputy heads. 4. Expanding limit of level 1 heads.
§ 2.1.5	none	Presidents and supervisors representing government or government share at private corporations	
§ 2.1.6	Principals and presidents of public schools	Vice principals and vice presidents of public schools	Adding vice principals and vice presidents
§ 2.1.6	none	Heads and deputy heads at subsidiary organizations of schools	For instance, subsidiary hospitals, forests, ranches, hotels, etc.
§ 2.1.7	Heads of military units above level of major general	Directors, deputy directors at military units above level of colonel	Expanding the rank to above level of colonel and adding deputy directors.
§ 2.1.8	Elected heads at governmental units above township level.	Elected heads at governmental units above township level pursuant to the Public Officials Election and Recall Act	Eliminating the limit of level of governmental units
§ 2.1.9	Elected representatives at municipal government's departments (above level of county)	Elected representatives at governmental departments of all levels	
§ 2.1.10	Judges and prosecutors	Judges, prosecutors, executive officers, military judges	
§ 2.1.11	Moved to Amendment § 2.1.12	Directors at civil service ethnics office, military prosecuting office	Adding directors at civil service ethnics office, military prosecuting office
§ 2.1.12	Directors at departments of Police, Judicial, Tax, Custom, Land administration, Directorate General of Budget, Accounting and Statistics, Urban Planning, Stock Management, Procurement (above level of municipal government)	Directors of departments of judicial police, tax, custom, land administration accounting, assurance, architecture management, business registration, urban planning, financial supervision and management, public property management, financial loans, merchandise inspection, trademark, patent, motor vehicle management, environmental auditing, procurement, etc. The range is defined by Ministry of Justice and each central governing authority. As the departments are under supervision of Ministry of National Defense or military, the Ministry of National Defense defines it.	Definition and range of relative officers are announced by the Ministry of Justice or each governing authority separately.
§ 2.1.13	Contents are originally listed in § 2.1.12: "other particular officers regulated to file by the governing authority and the Examination Yuan"	other particular officers regulated to file by the governing authority	

二、除了「法定財產申報義務人」及「經核定財產申報義務人」之外，增加了「指定財產申報義務人」。

三、增加代理「法定財產申報義務人」，應於代理滿3個月之後，為就到職申報。

四、增加卸（離）職及解除代理申報之規定（修正條文第 3條）。

（一）公職人員於喪失第2條所定應申報財產之身分起 2個月內，將卸（離）職或解除代理當日之財產情形，向原受理財產申報機關（構）進行申報。

（二）但於辦理卸（離）職或解除代理申報期間內，再任應申報財產之公職時，應依修正條文第 3條第1項規定辦理就（到）職申報，免卸（離）職或解除代理申報。

II. In addition to “statutory property filing obligator” and “ratified property filing obligator”, adding “designated property filing obligator”.

III. Regulating the statutory property filing obligators to file as the duty is over three months.

IV. Amending regulations governing filing of relieved, resigned officers and disengaged acting officers in Amendment § 3.

(I). Within 2 months after public servants lack of regulated positions, it requires to file property status at the time of leaving office to original governing authorities.

(II). Pursuant to Amendment §3.1, within the period of filing, it requires to file property status at the time of installment if the officer obtains another position regulated to file.

(III). It does not require to file if the term of the acting officer is less than 3 months. (Amendment §2.2)

V. Public servants of higher grade or fame are regulated to file to Control Yuan. The filing is to be published on official gazettes or websites for review of the public. (Amendment § 4)

VI. Details on specific property filing (including acquiring time, reason, and value):

(I). In Amendment § 5.1.2, foreign currency is replaced by cash. Besides deposits in the bank, post office, financial institution, cash saved in the safe shall be filed.



(三) 代理未滿 3 月即解除代理時，不用申報。(修正條文第 2 條第 2 項但書)。

五、將職務列等較高之公職人員，或易受民眾矚目之公職人員，明定向監察院申報財產，並刊登於政府公報及上網公告，以供民眾檢視(修正條文第 4 條)

六、嚴密財產申報之內容(對一定財產之申報，尚包括取得時間、原因、價額)：

(一) 修正條文第 5 條第 1 項第 2 款將外幣改成「現金」，除存入銀行、郵局、金融機構之存款外，其餘存在保險箱等之現金，無論台幣或外幣均需申報。

(二) 針對珠寶、古董、字畫單獨申報。

(三) 修正條文第 5 條第 3 項規定：「申報之財產，除第 1 項第 2 款外，應一併申報其取得或發生之時間及原因；其為第 1 項第 1 款之財產，且係於申報日前 5 年內取得者，並應申報其取得價額。」就是說財產申報法第 5 條第 1 款及第 3 款之土地、房屋、船舶、汽車、航空器、債權、債務、事業投資，另需申報何時取得，及發生原因；不動產、船舶、汽車、航空器若是在 5 年內取得，尚需申報當時取得價額，這些項目都會在財產申報表上增

(II).Jewelry, antiques, artwork shall be filed separately.

(III).Amendment § 5.3 regulates, “property to be filed shall be filed along with the acquiring time, reason, except for exceptions mentioned in § 1.2. For property defined in § 1.1 and also acquired within 5 years before filing, it requires to file with value”. This is to say, land, houses, ships, cars, aircrafts, creditor’s rights, debt, investment mentioned in Act § 5.1.3, shall be filed with acquiring time and reason. Value is also required as the real estate, ships, cars, aircrafts are acquired within 5 years.

VII. Adding rules governing “property compulsory trust” and abandon prevailing rules on parallel system combining trust and status filing.(Amendment § 7)

Prevailing combined system refers to the regulation that it is an optional choice to do status filing as any change or dealing of real estate, stocks of high-ranking public officers and elected representatives takes place. However, ever since the status filing comes



加欄位。

七、增訂「財產強制信託」條款，摒除現行條文採信託、動態申報雙軌制（修正條文第7條）：現行法規定信託與動態申報雙軌制，亦即高階政府官員、民意代表之不動產、有價證券做了一定變動或買賣時，可選擇動態申報。但自從有動態申報制度，沒有人要做信託，因為大家認為信託很麻煩，但是因為信託可讓申報人財產較為透明，因此修正條文第7條規定強制信託單軌制。新修訂之財產申報法最主要不同在於公營事業總分支機構之首長及副首長也要強制信託，其他人員則不變，另外在強制信託內容上也有變動。

into force, trust becomes a less desirable choice because of its inconvenience. In consideration of transparency of obligator's property status, the Amendment § 7 adopts a parallel system of compulsory trust and status filing. What the Amendment distinguishes from the former act is that even heads and deputy heads at state-owned enterprises and affiliates are regulated to accept compulsory trust while others are remained as the same. Further, some changes to compulsory trust are made in the Amendment.

VIII. Adding filing system of property change in Amendment § 8. Real estate, stocks of listed company or OTC listed company, and other regulated property owned by legislators, assemblymen of city council of municipality directly under the jurisdiction of the Central Government are regulated to be filed for the status change yearly.

IX. Strengthen check of documents to be filed in Amendment § 11. Before the act is amended, check is only performed for incorrect filing.



八、增定「財產變動申報」制度（修正條文第 8 條）：

立法委員及直轄市議員其本人、配偶及未成年子女之不動產、國內上市、上櫃之股票及其他經核定之財產，應每年辦理變動申報。

九、強化申報資料之查核(修正條文第11條)：

修正前條文只有針對申報不實予以查核，修正後條文除申報不實以外，有無依據規定辦理財產信託、財產有無異常增減皆可查核。以前查核單位只可查核個案及一個時點，依修正條文未來即可查詢一個期間，不限單一時點。

十、增定意圖隱匿財產不實申報及財產異常增加違反真實說明義務之罰則規定(修正條文第12條)：

有申報義務之人故意隱匿財產為不實之申報，

After amendment, focus has been expanded to property trust, unreasonable increase of property. Previously, in charge department is allowed to check individual case and fact in a very short period of time. Currently, pursuant to the Amendment, the period is allowed to be longer.

X. Adding penalties to intentional hiding of property, incorrect filing, lack of explanation to unreasonable increase of property in Amendment § 12. As the filing obligator intentionally hide property and file incorrectly, or increase of property of this year is twice than the sum of income of himself/herself, spouse, minor children in one year, in charge



或其前後年度申報之財產經比對後，增加總額逾其本人、配偶、未成年子女全年薪資所得總額一倍以上者，受理申報機關（構）應定一個月以上期間通知有申報義務之人提出說明，無正當理由未為說明、無法提出合理說明或說明不實者，分別處於最高新台幣400萬元或300萬元之罰鍰。

十一、增列「未依法信託」、「信託不實」之處罰規定（修正條文第13條）。

十二、增訂罰鍰處罰時效為5年（修正條文第15條）。

十三、修訂財產申報資料之保存期限及屆期處理方式（修正條文第16條）：現行法規規定申報表要一直保留，並隨申報人所任機關變動而轉移，於喪失公職人員身分之日起屆滿一年發還申報人；修正條文則規定申報資料自申報人喪失所定應申報財產身分之次日起，保存5年即應予銷毀，不發還申報人。

本署目前需申報財產之公職人員共41人，修法後需申報財產之公職人員擴增含各機動查緝隊、各巡防總隊暨勤務中隊、各偵防查緝隊、第一至第十六海巡隊、直屬船隊、各機動海巡隊等具簡任10職等以上且兼有司法警察身分之主管人員，申報義務人數增至148人。🌍

department shall issue notice for the obligator's explanation. Explanation is strictly required unless there are reasonable reasons. Penalty to lack of sufficient explanation is fined of NT\$300 million to 400 million.

XI. Adding penalty to lack of property trust or incorrect trust in Amendment § 13.

XII. Adding 5-year effective period of penalty in Amendment § 15.

XIII. Amending maintenance period and depositing way of filing documents in Amendment § 16. Previously filing documents shall be maintained for goods and transferred depending upon the department the obligator works for. After one year following leaving public office, the documents are returned to the obligator. As the Amendment regulates, filing documents are maintained for 5 years from the date of leaving public office and not to be returned to the obligator.

Filing obligators in the Civil Service Ethics Office is estimated to 41. As the Amendment expands range of obligators to senior directors at reconnaissance brigade, patrol corps, 1-16 offshore flotilla, sector flotilla, and flotilla, who are above 10-grade and also have the position of judicial police, the number of filing obligators climb to 148.