

(Regulations of the California Code of Regulation, Title 2 Division 6, California Code of Regulations.)

**§ 18728.5. Reporting of Commission Income and Incentive Compensation.**

(a) A public official required to disclose income pursuant to this title must disclose commission income, as defined in 2 Cal. Code Regs. section 18700.1(c)(1), and incentive compensation, as defined in 2 Cal. Code Regs. section 18700.1(d), as described by this regulation.

(b) Disclosure of Commission Income.

A public official shall report commission income as follows:

(1) The total amount of commission income received by the official during the period covered by the statement shall be reported if it equals \$500 or more.

(A) The source of income shall be listed as the official if the official is self-employed or is reporting as a business entity. For purposes of this subdivision, a public official who receives commission income on a regular basis is a business entity.

(B) If the official conducts business through a firm or other business entity, the source of income shall be listed as the firm or other business entity.

(2) If the official reports commission income as a business, in addition to the information reported pursuant to subdivision (b)(1) of this regulation, the name of each source of gross commission income shall be reported if the source provided commission income of \$10,000 or more during the period covered by the statement.

(3) The full gross value of any commission income for a specific sale or similar transaction shall be attributed to each source of income in that sale or transaction.

(c) Disclosure of Incentive Compensation.

(1) In addition to salary, reimbursement of expenses, and other income received from the official's employer, a public official shall separately report the name of each person who purchased products or services sold, marketed or represented by the public official if the official received incentive compensation of five hundred dollars (\$500) or more attributable to the purchaser during the period covered by the statement.

(2) If an official's incentive compensation is paid by the official's employer in a lump sum, without allocation of amounts to specific customers, the official shall determine the amount of the incentive compensation attributable to each of the official's customers. This may be based on the volume of sales to or purchases made by those customers and the amount of incentive compensation attributable to each customer according to the formula utilized by the official's employer.

### **Credits**

NOTE: Authority cited: Section 83112, Government Code. Reference: Sections 82030, 87207 and 87302, Government Code.

### **HISTORY**

1. New section filed 11-10-2003; operative 11-10-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 46).
2. Amendment of subsections (b)(1)(A) and (c)(1)-(2) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).

3. Amendment of subsection (a) and amendment of NOTE filed 10-20-2022; operative 11-19-2022 pursuant to Cal. Code Regs., title 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2022, No. 42).