

The Experience of Asset Declaration in the Philippines

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As an effective strategy to combat corruption and promote ethical conduct in public service in the Philippines, as early as June 18, 1955, Republic Act 1379 was passed and approved into law declaring forfeiture in favor of the State any property found to have been unlawfully acquired by any public officer or employee. This refers to an amount of property acquired by any public officer or employee during his/her incumbency which is manifestly out of proportion to his/her salary as such public officer or employee and to his/her other lawful income and the income from legitimately acquired property.

In order to effectively implement Republic Act 1379, several legislative measures were installed and one of them is the requirement of asset declaration which is the primary and effective tool to find evidence of illegal enrichment.

On August 17, 1960, Republic Act 3019, as amended, was passed and approved into law, otherwise known as the Anti-Graft and Corrupt Practices Act of the Philippines. Section 7 of the said Act, expressly states:

"Section 7. Statement of Assets and Liabilities. -
Every public officer, within thirty days after assuming office and, thereafter, on or before the fifteenth day of April following the close of every calendar year, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or Chief of an independent office, with the Office of the President, a true detailed and sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year; xxx...."(As amended by RA 3047, PD 677 and PD 1288, January 24, 1978) (underlining supplied)

On February 20, 1989, this particular Section of the Act was modified and expanded by the passage of Republic Act 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

Section 8 of the said Act, expressly states:

“Section 8. Statements and Disclosure. - Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.” (underlining supplied)

Asset disclosure is mandated by the Constitution of the Republic of the Philippines. Article XI, Section 17 of the 1987 Constitution, expressly states:

“Section 17. A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law.”

COVERAGE OF THE LAWS

The requirement of asset declaration covers all public officials and employees, except those who serve in an official honorary capacity, without service credit or pay, temporary laborers, and casual or temporary and contractual workers.

This is embodied in Rule VIII (Review and Compliance Procedure) of the Rules Implementing Republic Act 6713, which explicitly states:

“Section 1. Filing and Submission of SALN on Time and to the Proper Official

- a. All public officials and employees, except those who serve in an official honorary capacity, without service credit or pay, temporary laborers and casual or temporary and contractual workers, shall file under oath their SALNs and Disclosure of Business Interest and Financial Connections with their respective Chief or Head of the Personnel/Administrative Division or Unit/Human Resource Management Office (HRMO), to wit:

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THE PRESCRIBED FORM

In order to capture and uniformly comply with the requirement as to the sufficiency of the contents of the declaration an official form has been prescribed and labeled as "Sworn Statement of Assets, Liabilities and Networth, Disclosure of Business Interest and Financial Connections, and Identifications of Relatives in the Government Service". The prescribed blank form is hereunder shown:

(Form 1)
1994

**SWORN STATEMENT OF ASSETS, LIABILITIES AND NETWORTH
DISCLOSURE OF BUSINESS INTERESTS AND FINANCIAL CONNECTIONS
AND IDENTIFICATION OF RELATIVES IN THE GOVERNMENT SERVICE**
As of December 31, 19____
(Required by R.A. No. 6713)

Surname _____ First Name _____ M.I. _____ Position/Income _____
Office _____
Address _____ Office Address _____

Spouse Name _____ Position _____
Surname _____ First Name _____ M.I. _____ Office _____

Unmarried Children below 18 years of age:

Name	Date of Birth
_____	_____
_____	_____
_____	_____

A. ASSETS, LIABILITIES AND NETWORTH

1. ASSETS

A. REAL PROPERTIES

KIND	LOCATION	YEAR ACQUIRED	MODE OF ACQUISITION	NATURE OF PROPERTY (paraphernal, conjugal or community)	ASSESSED VALUE	CURRENT FAIR MARKET VALUE	ACQUISITION COST	
							LAND BUILDING, ETC.	IMPROVEMENTS

Total P _____

B. PERSONAL and OTHER PROPERTIES

KIND/S	YEAR ACQUIRED	ACQUISITION COST

Total P _____

C. LIABILITIES (Loans, mortgages, etc.)

NATURE	NAME OF CREDITORS	AMOUNT

NETWORTH [Total Assets (1a + 1b) less
Total Liabilities (2)]

Total P _____
Total P _____

B. BUSINESS INTERESTS AND FINANCIAL CONNECTIONS

Do you have any business interest and other financial connections including those of your spouse and unmarried children below 18 years of age living with you in your household? Yes ... No If yes, give particulars.

NAME	NAME OF FIRM/COMPANY	ADDRESS	NATURE OF BUSINESS AND/OR FINANCIAL CONNECTION	DATE OF ACQUISITION OR CONNECTION

C. IDENTIFICATION OF RELATIVES IN THE GOVERNMENT SERVICE

To the best of your knowledge, are you related within the fourth degree of consanguinity or of affinity to anyone working in the government? Yes No If yes, give particulars.

NAME	POSITION	RELATIONSHIP	NAME/ADDRESS OF OFFICE

I hereby certify to the best of my knowledge and information, that these are true statements of my assets, liabilities, networth, business interests and financial connections including those of my spouse and unmarried children below 18 years of age and names of my relatives in the governments as of December 31, 19___, as required by and in accordance with Republic Act 6713.

I hereby authorized the Ombudsman or his authorized representatives to obtain and secure from all appropriate government agencies, including the Bureau of Internal Revenue, such documents that may show my assets, liabilities, net worth, business interests and financial connections, to include those of my spouse and unmarried children below 18 years of age living with me in my household covering previous years to include the year I first assumed office in the government.

Date _____, 19__

Signature of Spouse

Signature of Employee

TIN : _____

TIN: _____

Com. Cert No.: _____

Com. Cert No. : _____

Issued at : _____

Issued at : _____

Issued on: _____

Issued on : _____

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 19 ____
affiant exhibiting his Community Tax Certificate as indicated above.

(Person Administering Oath)

FILING FREQUENCY

The Statement of Assets, Liabilities and Networth is required to be filed by a public officer or employee within thirty(30) days after assumption of office, and on or before April 30 of every year thereafter and within thirty days after separation from the service. Rule VIII, Section 1(a) of the Rules Implementing Republic Act 6713, expressly states:

“Section 1. Filing and Submission of SALN on Time and to the Proper Official

- a. All public officials and employees, except those who serve in an official honorary capacity, without service credit or pay, temporary laborers and casual or temporary and contractual workers, shall file under oath their SALNs and Disclosure of Business Interest and Financial Connections with their respective Chief or Head of the Personnel/Administrative Division or Unit/Human Resource Management Office (HRMO), to wit:
 1. Within thirty (30) days after assumption of office, statements of which must be reckoned as of his/her first day of service;
 2. On or before April 30 of every year thereafter, statements of which must be reckoned as of the end of the preceding year, and
 3. Within thirty (30) days after separation from the service, statements of which must be reckoned as of his/her last day of office.”

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DECLARATION PROCESSING

Upon receipt of the Statements of Asset, Liabilities and Networth (SALNs) the same are evaluated to determine whether or not they have been properly accomplished by the filers. Those who did not comply are required to comply by the Head of Office thru Compliance Order directing the concerned employee(s) to comply within a non-extendible period of three (3) days from receipt of the order. Thereafter, the original copies of the SALNs are transmitted, on or before June 30 of every year to the concerned offices, to act as custodian of the said documents. Sections 2, 3 and 5 of Rule VIII (Review and Compliance Procedure), expressly state:

“Section 2. Duties of the Chief/Head of the Personnel/Administrative Division or Unit/HRMO

Upon receiving the SALN forms, the Chief/Head of the Personnel/Administrative Division or Unit/HRMO shall evaluate the same to determine whether said statements have been properly accomplished. A SALN is deemed properly accomplished when all applicable information or details required therein are provided by the filer. Items not applicable to the filer should be marked N/A (not applicable).

The Chief/Head of the Personnel/Administrative Division or Unit/HRMO shall submit a list of employees in alphabetical order, who: a) filed their SALNs with complete data; b) filed their SALNs but with incomplete data; and c) did not file their SALNs, to the head of office, copy furnished the CSC, on or before May 15, of every year.

Section 3. Ministerial Duty of the Head of Office to issue Compliance Order

Immediately upon receipt of the aforementioned list and recommendation, it shall be the ministerial duty of the Head of Office to issue an order requiring those who have incomplete data in their SALN to correct/supply the desired information and those who did not file/submit their SALNs to comply within a non-extendible period of three (3) days from receipt of said order.

Assets and/or properties acquired, donated or transferred in the name of the filer for a particular year, but were not declared on his/her SALN for that year, as the same came to his/her knowledge only after he/she has filed, corrected and/or submitted his/her SALN, must be declared or reflected in the filer's next or succeeding SALN."

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Section 5. Transmittal of all submitted SALNs to the concerned agencies on or before June 30.

The Chief/Head of the Personnel/Administrative Division or Unit/HRMO shall transmit all original copies of the SALNs received, on or before June 30 of every year, to the concerned offices, as specified below:

National Office of the Ombudsman	-President and Vice-President of the Philippines -Chairmen and Commissioners of Constitutional Commissions and Offices
Secretary of the Senate	-Senators

Secretary General of the House of Representatives	-Congressmen
Clerk of Court of the Supreme	-Justices of the Supreme Court, Court of Appeals, Sandiganbayan and Court of Tax Appeal
Court Administrator	-Judges of the Regional Trial Court, Metropolitan Circuit Trial Court, Municipal and Special Courts
Office of the President	-National Executive Officials such as Members of the Cabinet, Undersecretaries and Assistant Secretaries, including the Foreign Service Offices -Heads of Government-Owned and Controlled Corporations with original charters and their subsidiaries, and State College and Universities -Officers of the Armed Forces from the rank of colonel or Naval Captain
Deputy Ombudsman	-Regional Officials and Employees of Departments, Bureaus and Agencies of the National Government including the Judiciary and Constitutional Commission and Offices -Regional Officials and Employees of Government-Owned and Controlled Corporations and their subsidiaries in the region -All other officials and employees of state Colleges and Universities -Regional Officers below the rank of Colonel or Naval Captain including Civilian Personnel of the AFP -Regional Officials and Employees of the PNP -Provincial Officials and Employees including Governors, Vice-Governors and Sangguniang

	<p>Panlalawigan Members -Municipal and City Officials and Employees including Mayors, Vice-Mayors, Sangguniang Bayan/Panlungsod Members and Barangay Officials</p>
Civil Service Commission	<p>-All other Central Officials and Employees of Departments, Bureaus and Agencies of the National Government, including the Judiciary and Constitutional Commissions and Offices, as well as Government-Owned and Controlled Corporations Departments, Bureaus and Agencies of the National Government, including the Judiciary and Constitutional Commissions and Offices, as well as Government-Owned and Controlled Corporations and their subsidiaries -Appointive Officials and Employees of the Legislature -All other Central Officers below the Rank of Colonel or Naval Captain as well as Civilian-Personnel of the AFP -All other Uniformed and Non-Uniformed Central Officials and Employees of the PNP, BJMP and BFP</p>

In August 2006 (last year), the SALN Data Bank System was designed and installed in the Office of the Ombudsman to capture SALNs filed at the Central Office. This system is still in its initial implementation stage but later on it can be adopted by the area/sectoral offices. It has the capability to track compliance by producing a report showing a list of filers who filed their SALNs in the previous years but did not file this year. It is also useful in trend analysis by providing data about the yearly percentage increase in the networth of a filer.

PUNISHMENT FOR BREACH

Section 4 of Rule VIII (Compliance and Procedure) provides sanctions against an officer or employee for failure to correct/submit his/her SALN in accordance with the procedure. On the other hand, Section 6 of the said Rule provides a penalty against the Head of Office and/or the Chief/Head of the Personnel/Administrative Divisions who failed to perform their duties relative to the processing of SALNs. Sections 4 and 6 of Rule VIII, expressly state:

“Section 4. Sanction for Failure to Comply/Issuance of a Show-Cause Orders

Failure of an official or employee to correct/submit his/her SALN in accordance with the procedure and within the given period pursuant to the directive in Section 3 hereof shall be a ground for disciplinary action. The Head of Office shall issue a show-cause order directing the official or employee concerned to submit his/her comment or counter-affidavit; and if the evidence so warrants, proceed with the conduct of the administrative proceedings pursuant to the **Uniform Rules on Administrative Cases in the Civil Service (CSC Resolution No. 99-1936 dated August 31, 1999)**. The offense of failure to file SALN is punishable under **Rule IV, Section 52 (B) (8)** thereof, with the following penalties:

1st offense - Suspension for one (1) month and one (1) day to 6 months

2nd offense - Dismissal from the service

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Section 6. Penalty

The Head of the Office and/or the Chief/Head of the Personnel/Administrative Division or Unit/HRMO who failed to perform their duties may be held liable for neglect of duty under **Section 46, Chapter 7, Subtitle A, Title I, Book V of the Administrative Code of 1987 (Executive Order No.292).**”

The officer or employee who violated the requirements of asset declaration can also be criminally and/or administratively punished under the following provisions of laws:

a) Section 11 of Republic Act 6713, expressly states:

“Section. 11. Penalties. - (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000.00), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.
(underlining supplied)

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.

(c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.”

b) Section 9(b) of Republic Act 3019, as amended, likewise expressly states:

“Section 9. Penalties for violations. – xxx...

(b) Any public officer violating any of the provisions of Section 7 of this Act shall be punished by a fine of not less than one thousand pesos nor more than five thousand pesos, or by imprisonment not exceeding one year and six months, or by both such fine and imprisonment, at the discretion of the Court.

The violation of said section proven in a proper administrative proceedings shall be sufficient cause for removal or dismissal of a public officer, even if no criminal prosecution is instituted against him.”(As amended by BP Blg. 195, March 16, 1982).”

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c) **Perjury** under article 183 of the Revised Penal Code, with penalty of arresto mayor in its maximum period to prision correccional in its minimum period ranging from four (4) months and one (1) day to two (2) years and

four (4) months imprisonment for making a statement upon a material matter; that the statement was made before a competent officer, authorized to receive and administer oath; that the statement contains willful and deliberate assertion of falsehood; and, that the sworn statement containing the falsity is required by law.

d) **Falsification** under Article 171 of the Revised Penal Code with a penalty of prison mayor ranging from six years and one (1) day to twelve (12) years imprisonment – for making untruthful statements in the narration of facts; and, that he/she has a legal obligation to disclose the truth of the facts narrated by him.

e) Under Section 52 of the Uniform Rules on Administrative Cases in the Civil Service for Dishonesty with a penalty of dismissal from the service for the first offense.

PUBLIC ACCESS TO DECLARATION

The public has access to the declarations/statements but with certain limitations. Section 8(C) and (D) of Republic Act 6713, expressly states:

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(C) **Accessibility of documents.** - (1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours.

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

(D) **Prohibited acts.** - It shall be unlawful for any person to obtain or use any statement filed under this Act for:

(a) *any purpose contrary to morals or public policy;*
or

(b) *any commercial purpose other than by news and communications media for dissemination to the general public.*

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ENFORCEMENT AND IMPLEMENTATION EXPERIENCE

The survey as to the number of complaints related to Asset Declaration filed with the Office of the Ombudsman yearly from Year 2007 (this year) down to Year 2000 shows the following:

<u>Year</u>	Complaint for Failure to File or Failure to File a True and Detailed SALN	Complaint for Forfeiture	<u>Total</u>
2007 (As of June 30)	21	14	35
2006	40	22	62
2005	43	27	70
2004	25	18	43
2003	22	15	37
2002	18	7	25
2001	12	8	20
2000	22	4	26

The Presidential Anti-Graft Commission (PAGC) Report as to the number of administrative charges filed by the Commission pertaining to non-filing or failure to file a true and detailed Statement of Assets, Liabilities and Networth (SALN) from 2003 – 2007 shows the following:

<u>Year</u>	<u>Non-Filing of SALN</u>	<u>Failure to File a True and Detailed SALN</u>	<u>Total</u>
2003	-	4	4
2004	-	3	3
2005	1	-	1
2006	1	5	6
2007 (as of June 30)	-	7	7

The Sandiganbayan, the Anti-Graft Court of the Philippines, reported eight (8) Petitions for Forfeiture filed from Year 2002 to year 2005 as follows:

<u>Civil Case Number</u>	<u>Date Filed</u>
0189	July 29, 2002
0190	March 10, 2003
0192	September 27, 2004
0193	October 27, 2004
0194	June 7, 2005
0195	July 4, 2005
0196	July 5, 2005
0197	September 13, 2005

COMMON OBSERVATIONS

The following are the common observations/findings in the investigation of cases involving asset declaration in the Philippines:

1. non-filing of SALN
2. non-declaration of assets
3. non-declaration of improvements
4. non-declaration of business interest and other financial connections
5. assets are recorded in the name of dummies or other persons except beneficial use
6. changing the mode of acquisition of assets
7. lumping of illegitimate assets to intermingle with other legitimate assets
8. disposal of newly acquired asset with fantastic selling price to justify sharp increase in networth
9. almost all filers subject to lifestyle check claimed that they won in lotteries
10. increase of liabilities due to bank loans without an actual or existing loan in the bank
11. recording of non-existing assets during the initial submission of SALN

- END -